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# ELOQUENCE

OF

## THE UNITED STATES:

COMPILED

BY E. B. WILLISTON.

3423

IN FIVE VOLUMES.

VOL. I.

MIDDLETOWN, CONN.

PRINTED AND PUBLISHED BY E. & H. CLARK.

1827.

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DISTRICT OF CONNECTICUT, SS.



BE IT REMEMBERED, That on the seventeenth day of July, in the fifty-second year of the Independence of the United States of America, E. B. WILLISTON, of the said District, hath deposited in this Office, the title of a Book, the right whereof he claims as Author and Proprietor, in the words following—to wit:

*“ Eloquence of the United States : compiled by E. B. Williston, in five volumes.”*

In conformity to the Act of Congress of the United States, entitled, “ An Act for the encouragement of learning, by securing the copies of Maps, Charts and Books, to the authors and proprietors of such copies, during the times therein mentioned.”—And also to the Act, entitled, “ An Act supplementary to an Act, entitled ‘ An Act for the encouragement of learning, by securing the copies of Maps, Charts and Books, to the authors and proprietors of such copies during the times therein mentioned,’ and extending the benefits thereof to the arts of designing, engraving and etching historical and other prints.”

CHA'S A. INGERSOLL,

*Clerk of the District of Connecticut.*

A true copy of Record, examined and sealed by me,

CHA'S A. INGERSOLL,

*Clerk of the District of Connecticut.*



## PREFACE.



THE Compiler of these volumes was induced to engage in the undertaking, from the conviction that a collection of the kind would be of great public utility and meet with liberal encouragement. He now offers them to the public with much diffidence, arising from an apprehension that he may have been injudicious in his choice of materials, and that the expectations of his patrons will be disappointed.

The work consists of selections from the Deliberative, Forensic and Miscellaneous Eloquence of the United States.

A copious selection has been made from the debates in the several State Conventions on the expediency of adopting the Federal Constitution, which, it is believed, will be found highly interesting at the present time, when so much difference of opinion exists relative to the true meaning and intent of some parts of that instrument.

The Congressional Eloquence of the most interesting period of our history, (during the Revolution,) is irrevocably lost; and such was the condition of the



art of reporting for several years subsequent, that sketches only of the debates were preserved by the reporters.

In the selection of the Speeches in Congress, two objects have directed the Compiler in his choice—the eloquence of the productions, and the importance of the subjects of discussion; and as far as practicable, he has given preference to those which unite both these qualities. He has endeavored, without regard to the political parties which have existed, to make the selection in such manner as to furnish a view of the most important subjects which have engaged the deliberations of Congress. Several speeches, originally reported in the third person, have been changed to the first with as little alteration in the phraseology as possible.

In Forensic Eloquence, great excellence has been attained in this country; but most of the efforts in this department have passed away with the occasions which gave them birth, or exist only in the recollections of those who heard them.

In the prosecution of his undertaking, the Compiler has applied to every source from which he could expect to derive aid; and takes this opportunity to acknowledge his great obligations to numerous gentlemen, from whom he has received valuable assistance. He still is sensible that, notwithstanding his exertions to render the collection as perfect as possi-

ble, it is not improbable that the 'sin of omission' may be justly laid to his charge.

But when it is considered how various and extensive are the materials from which the compilation has been made, he feels confident that due allowance will be made for any errors of this kind into which he may have fallen.

MIDDLETOWN, CONNECTICUT, }  
Nov. 13, 1827. }





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*James Wilson - a Gentleman & Scholar - Signer of the Declaration of Independence*  
1776

**SPEECH OF JAMES WILSON,**

*Read before the Convention of Pennsylvania*  
**ON THE EXPEDIENCY OF ADOPTING THE**

**FEDERAL CONSTITUTION,**

**DELIVERED IN THE CONVENTION OF PENNSYLVANIA,  
NOVEMBER 26th, 1787.\***



THE system proposed, by the late convention, for the government of the United States, is now before you. Of that convention I had the honor to be a member. As I am the only member of that body, who has the honor to be also a member of this, it may be

\* Soon after the termination of the war of the revolution, it became apparent that the powers vested in the General Government, by the articles of Confederation, were inadequate, and that the unity which had existed among the states during the war, had resulted rather from the pressure of circumstances, than from any authority of the General Government.

So universal was the conviction that the public welfare required a Government of more extensive powers, that in May, 1787, a convention, composed of delegates from all the states in the union, with the exception of Rhode Island, assembled at Philadelphia, to take the subject into consideration. It continued its deliberations with closed doors until the 17th of the following September, when the Federal Constitution was promulgated. The convention resolved, "That the constitution be laid before the United States, in Congress assembled, and that it is the opinion of this convention that it should afterwards be submitted to a convention of delegates, chosen in each state by the people thereof, for their assent and ratification."

In conformity to the recommendation of the convention, Congress, on the 28th of the same month, passed a resolution directing that the constitution be submitted to conventions to be assembled in the several states.

In the conventions subsequently assembled, the expediency of adopting the constitution was discussed with great ability and eloquence. The wisdom, genius and patriotism of the nation, were here called into action, and their concentrated rays threw over the subject a flood of light which left none of its intricacies unrevealed.—COMPILER,

expected that I should prepare the way for the deliberations of this assembly, by unfolding the difficulties which the late convention were obliged to encounter ; by pointing out the end which they proposed to accomplish ; and by tracing the general principles which they have adopted for the accomplishment of that end.

To form a good system of government for a single city or state, however limited as to territory, or inconsiderable as to numbers, has been thought to require the strongest efforts of human genius. With what conscious diffidence, then, must the members of the convention have revolved in their minds the immense undertaking which was before them. Their views could not be confined to a small or a single community, but were expanded to a great number of states ; several of which contain an extent of territory, and resources of population, equal to those of some of the most respectable kingdoms on the other side of the Atlantic. Nor were even these the only objects to be comprehended within their deliberations. Numerous states yet unformed, myriads of the human race, who will inhabit regions hitherto uncultivated, were to be affected by the result of their proceedings. It was necessary, therefore, to form their calculations on a scale commensurate to a large portion of the globe.

For my own part, I have been often lost in astonishment at the vastness of the prospect before us. To open the navigation of a single river was lately thought, in Europe, an enterprise adequate to imperial glory. But could the commercial scenes of the Scheldt be compared with those that, under a good government, will be exhibited on the Hudson, the Delaware, the Potomac, and the numerous other rivers, that water and are intended to enrich the dominions of the United States ?

The difficulty of the business was equal to its magnitude. No small share of wisdom and address is requisite to combine and reconcile the jarring interests, that prevail, or seem to prevail, in a single community.



The United States contain already thirteen governments mutually independent. Those governments present to the Atlantic a front of fifteen hundred miles in extent. Their soil, their climates, their productions, their dimensions, their numbers, are different. In many instances, a difference and even an opposition subsists among their interests; and a difference and even an opposition is imagined to subsist in many more. An apparent interest produces the same attachment as a real one; and is often pursued with no less perseverance and vigor. When all these circumstances are seen and attentively considered, will any member of this honorable body be surprised, that such a diversity of things produced a proportioned diversity of sentiment? Will he be surprised that such a diversity of sentiment rendered a spirit of mutual forbearance and conciliation indispensably necessary to the success of the great work? And will he be surprised that mutual concessions and sacrifices were the consequences of mutual forbearance and conciliation? When the springs of opposition were so numerous and strong, and poured forth their waters in courses so varying, need we be surprised that the stream formed by their conjunction was impelled in a direction somewhat different from that, which each of them would have taken separately?

I have reason to think that a difficulty arose in the minds of some members of the convention from another consideration—their ideas of the temper and disposition of the people, for whom the constitution is proposed. The citizens of the United States, however different in some other respects, are well known to agree in one strongly marked feature of their character—a warm and keen sense of freedom and independence. This sense has been heightened by the glorious result of their late struggle against all the efforts of one of the most powerful nations of Europe. It was apprehended, I believe, by some, that a people so high spirited would ill brook the restraints of an efficient govern-



ment. I confess that this consideration did not influence my conduct. I knew my constituents to be high spirited; but I knew them also to possess sound sense. I knew that, in the event, they would be best pleased with that system of government, which would best promote their freedom and happiness. I have often revolved this subject in my mind. I have supposed one of my constituents to ask me, why I gave such a vote on a particular question? I have always thought it would be a satisfactory answer to say—because I judged, upon the best consideration I could give, that such a vote was right. I have thought that it would be but a very poor compliment to my constituents to say, that in my opinion, such a vote would have been proper, but that I supposed a contrary one would be more agreeable to those who sent me to the convention. I could not, even in idea, expose myself to such a retort as, upon the last answer, might have been justly made to me. Pray, sir, what reasons have you for supposing that a right vote would displease your constituents? Is this the proper return for the high confidence they have placed in you? If they have given cause for such a surmise, it was by choosing a representative, who could entertain such an opinion of them. I was under no apprehension, that the good people of this state would behold with displeasure the brightness of the rays of delegated power, when it only proved the superior splendor of the luminary, of which those rays were only the reflection.

A very important difficulty arose from comparing the extent of the country to be governed, with the kind of government which it would be proper to establish in it. It has been an opinion, countenanced by high authority, “that the natural property of small states is to be governed as a republic; of middling ones, to be subject to a monarch; and of large empires, to be swayed by a despotic prince; and that the consequence is, that, in order to preserve the principles of the established government, the state must be support-

ed in the extent it has acquired; and that the spirit of the state will alter in proportion as it extends or contracts its limits.”\* This opinion seems to be supported, rather than contradicted, by the history of the governments in the old world. Here then the difficulty appeared in full view. On one hand, the United States contain an immense extent of territory, and, according to the foregoing opinion, a despotic government is best adapted to that extent. On the other hand, it was well known, that, however the citizens of the United States might, with pleasure, submit to the legitimate restraints of a republican constitution, they would reject, with indignation, the fetters of despotism. What then was to be done? The idea of a confederate republic presented itself. This kind of constitution has been thought to have “all the internal advantages of a republican, together with the external force of a monarchical government.”† Its description is, “a convention, by which several states agree to become members of a larger one, which they intend to establish. It is a kind of assemblage of societies, that constitute a new one, capable of increasing by means of farther association.”‡ The expanding quality of such a government is peculiarly fitted for the United States, the greatest part of whose territory is yet uncultivated.

But while this form of government enabled us to surmount the difficulty last mentioned, it conducted us to another, of which I am now to take notice. It left us almost without precedent or guide; and, consequently, without the benefit of that instruction, which, in many cases, may be derived from the constitution, and history, and experience of other nations. Several associations have frequently been called by the name of confederate states, which have not, in

\* Mont. Sp. L. b. 8. c. 20.

† Id. b. 9. c. 1. 1 Paley, 199—202.

‡ Mont. Sp. L. b. 9. c. 1.



propriety of language, deserved it. The Swiss Cantons are connected only by alliances. The United Netherlands are indeed an assemblage of societies; but this assemblage constitutes no new one; and, therefore, it does not correspond with the full definition of a confederate republic. The Germanic body is composed of such disproportioned and discordant materials, and its structure is so intricate and complex, that little useful knowledge can be drawn from it. Ancient history discloses, and barely discloses to our view, some confederate republics—the Achæan league, the Lycian confederacy, and the Amphictyonic council. But the facts recorded concerning their constitutions are so few and general, and their histories are so unmarked and defective, that no satisfactory information can be collected from them concerning many particular circumstances, from an accurate discernment and comparison of which alone, legitimate and practical inferences can be made from one constitution to another. Besides, the situation and dimensions of those confederacies, and the state of society, manners, and habits in them, were so different from those of the United States, that the most correct descriptions could have supplied but a very small fund of applicable remark. Thus, in forming this system, we were deprived of many advantages, which the history and experience of other ages and other countries would, in other cases, have afforded us.

Permit me to add, in this place, that the science even of government itself, seems yet to be almost in its state of infancy. Governments, in general, have been the result of force, of fraud, and of accident. After a period of six thousand years has elapsed since the creation, the United States exhibit to the world the first instance, as far as we can learn, of a nation, unattacked by external force, unconvulsed by domestic insurrections, assembling voluntarily, deliberating fully, and deciding calmly, concerning that system of government, under which they would wish that they

and their posterity should live. The ancients, so enlightened on other subjects, were very uninformed with regard to this. They seem scarcely to have had any idea of any other kinds of government, than the three simple forms designated by the epithets, monarchical, aristocratical, and democratical. I know that much and pleasing ingenuity has been exerted, in modern times, in drawing entertaining parallels between some of the ancient constitutions, and some of the mixed governments that have since existed in Europe. But I much suspect that, on strict examination, the instances of resemblance will be found to be few and weak; to be suggested by the improvements, which, in subsequent ages, have been made in government, and not to be drawn immediately from the ancient constitutions themselves, as they were intended and understood by those who framed them. To illustrate this, a similar observation may be made on another subject. Admiring critics have fancied, that they have discovered in their favorite Homer the seeds of all the improvements in philosophy, and in the sciences, made since his time. What induces me to be of this opinion, is, that Tacitus, the profound politician Tacitus, who lived towards the latter end of those ages which are now denominated ancient, who undoubtedly had studied the constitutions of all the states and kingdoms known before and in his time, and who certainly was qualified, in an uncommon degree, for understanding the full force and operation of each of them, considers, after all he had known and read, a mixed government, composed of the three simple forms, as a thing rather to be wished than expected: and he thinks, that if such a government could even be instituted, its duration could not be long. One thing is very certain, that the doctrine of representation in government was altogether unknown to the ancients. Now the knowledge and practice of this doctrine is, in my opinion, essential to every system, that can possess the qualities of freedom, wisdom, and energy.



It is worthy of remark, and the remark may, perhaps, excite some surprise, that representation of the people is not, even at this day, the sole principle of any government in Europe. Great Britain boasts, and she may well boast, of the improvement she has made in politics, by the admission of representation: for the improvement is important as far as it goes; but it by no means goes far enough. Is the executive power of Great Britain founded on representation? This is not pretended. Before the revolution, many of the kings claimed to reign by divine right, and others by hereditary right; and even at the revolution, nothing farther was effected or attempted, than the recognition of certain parts of an original contract,\* supposed at some remote period to have been made between the king and the people. A contract seems to exclude, rather than to imply, delegated power. The judges of Great Britain are appointed by the crown. The judicial authority, therefore, does not depend upon representation, even in its most remote degree. Does representation prevail in the legislative department of the British government? Even here it does not predominate; though it may serve as a check. The legislature consists of three branches, the king, the lords, and the commons. Of these, only the latter are supposed by the constitution to represent the authority of the people. This short analysis clearly shows, to what a narrow corner of the British constitution the principle of representation is confined. I believe it does not extend farther, if so far, in any other government in Europe. For the American States were reserved the glory and the happiness of diffusing this vital principle through all the constituent parts of government. Representation is the chain of communication between the people, and those to whom they have committed the exercise of the powers of government. This chain may consist of one or more links;

\* 1 Bl. Com. 233.

but in all cases it should be sufficiently strong and discernible.

To be left without guide or precedent was not the only difficulty, in which the convention were involved, by proposing to their constituents a plan of a confederate republic. They found themselves embarrassed with another of peculiar delicacy and importance; I mean that of drawing a proper line between the national government and the governments of the several states. It was easy to discover a proper and satisfactory principle on the subject. Whatever object of government is confined in its operation and effects within the bounds of a particular state, should be considered as belonging to the government of that state; whatever object of government extends in its operation or effects beyond the bounds of a particular state, should be considered as belonging to the government of the United States. But though this principle be sound and satisfactory, its application to particular cases would be accompanied with much difficulty; because, in its application, room must be allowed for great discretionary latitude of construction of the principle. In order to lessen or remove the difficulty arising from discretionary construction on this subject, an enumeration of particular instances, in which the application of the principle ought to take place, has been attempted with much industry and care. It is only in mathematical science, that a line can be described with mathematical precision. But I flatter myself that, upon the strictest investigation, the enumeration will be found to be safe and unexceptionable; and accurate too, in as great a degree as accuracy can be expected in a subject of this nature. Particulars under this head will be more properly explained, when we descend to the minute view of the enumeration which is made in the proposed constitution.

After all, it will be necessary, that, on a subject so peculiarly delicate as this, much prudence, much candor, much moderation, and much liberality should be



exercised and displayed, both by the federal government and by the governments of the several states. It is to be hoped, that those virtues in government will be exercised and displayed, when we consider, that the powers of the federal government, and those of the state governments, are drawn from sources equally pure. If a difference can be discovered between them, it is in favor of the federal government; because that government is founded on a representation of the whole union; whereas the government of any particular state is founded only on the representation of a part, inconsiderable when compared with the whole. It is not more reasonable to suppose, that the counsels of the whole will embrace the interest of every part, than that the counsels of any part will embrace the interests of the whole.

I intend not, sir, by this description of the difficulties with which the convention were surrounded, to magnify their skill or their merit in surmounting them, or to insinuate that any predicament, in which the convention stood, should prevent the closest and most cautious scrutiny into the performance, which they have exhibited to their constituents and to the world. My intention is of far other and higher aim—to evince by the conflicts and difficulties which must arise from the many and powerful causes which I have enumerated, that it is hopeless and impracticable to form a constitution, which will, in every part, be acceptable to every citizen, or even to every government in the United States; and that all which can be expected is, to form such a constitution as, upon the whole, is the best that can possibly be obtained. Man and perfection!—a state and perfection!—an assemblage of states and perfection! Can we reasonably expect, however ardently we may wish, to behold the glorious union?

I can well recollect, though I believe I cannot convey to others, the impression, which, on many occasions, was made by the difficulties which surrounded and pressed the convention. The great undertaking, at

some times, seemed to be at a stand; at other times, its motions seemed to be retrograde. At the conclusion, however, of our work, many of the members expressed their astonishment at the success with which it terminated.

Having enumerated some of the difficulties which the convention were obliged to encounter in the course of their proceedings, I shall next point out the end which they proposed to accomplish. Our wants, our talents, our affections, our passions, all tell us that we were made for a state of society. But a state of society could not be supported long or happily without some civil restraint. It is true that, in a state of nature, any one individual may act uncontrolled by others; but it is equally true, that, in such a state, every other individual may act uncontrolled by him. Amidst this universal independence, the dissensions and animosities between interfering members of the society would be numerous and ungovernable. The consequence would be, that each member, in such a natural state, would enjoy less liberty, and suffer more interruption, than he would in a regulated society. Hence the universal introduction of governments of some kind or other into the social state. The liberty of every member is increased by this introduction; for each gains more by the limitation of the freedom of every other member, than he loses by the limitation of his own. The result is, that civil government is necessary to the perfection and happiness of man. In forming this government, and carrying it into execution, it is essential that the interest and authority of the whole community should be binding on every part of it.

The foregoing principles and conclusions are generally admitted to be just and sound with regard to the nature and formation of single governments, and the duty of submission to them. In some cases they will apply, with much propriety and force, to states already formed. The advantages and necessity of civil government among individuals in society are not greater



or stronger than, in some situations and circumstances, are the advantages and necessity of a federal government among states. A natural and a very important question now presents itself. Is such the situation—are such the circumstances of the United States? A proper answer to this question will unfold some very interesting truths.

The United States may adopt any one of four different systems. They may become consolidated into one government, in which the separate existence of the states shall be entirely absorbed. They may reject any plan of union or association, and act as separate and unconnected states. They may form two or more confederacies. They may unite in one federal republic. Which of these systems ought to have been proposed by the convention? To support with vigor, a single government over the whole extent of the United States, would demand a system of the most unqualified and the most unremitted despotism. Such a number of separate states, contiguous in situation, unconnected and disunited in government, would be, at one time, the prey of foreign force, foreign influence, and foreign intrigue; at another, the victim of mutual rage, rancor, and revenge. Neither of these systems found advocates in the late convention: I presume they will not find advocates in this. Would it be proper to divide the United States into two or more confederacies? It will not be unadvisable to take a more minute survey of this subject. Some aspects, under which it may be viewed, are far from being, at first sight, uninviting. Two or more confederacies would be each more compact and more manageable, than a single one extending over the same territory. By dividing the United States into two or more confederacies, the great collision of interests, apparently or really different and contrary, in the whole extent of their dominion, would be broken, and in a great measure disappear in the several parts. But these advantages, which are discovered from

certain points of view, are greatly overbalanced by inconveniences that will appear on a more accurate examination. Animosities, and perhaps wars, would arise from assigning the extent, the limits, and the rights of the different confederacies. The expenses of governing would be multiplied by the number of federal governments. The danger resulting from foreign influence and mutual dissensions would not, perhaps, be less great and alarming in the instance of different confederacies, than in the instance of different, though more numerous unassociated states. These observations, and many others that might be made on the subject, will be sufficient to evince, that a division of the United States into a number of separate confederacies, would probably be an unsatisfactory and an unsuccessful experiment. The remaining system, which the American States may adopt, is a union of them under one confederate republic. It will not be necessary to employ much time or many arguments to show, that this is the most eligible system that can be proposed. By adopting this system, the vigor and decision of a wide spreading monarchy may be joined to the freedom and beneficence of a contracted republic. The extent of territory, the diversity of climate and soil, the number, and greatness, and connexion of lakes and rivers, with which the United States are intersected and almost surrounded, all indicate an enlarged government to be fit and advantageous for them. The principles and dispositions of their citizens indicate, that in this government liberty shall reign triumphant. Such indeed have been the general opinions and wishes entertained since the era of our independence. If those opinions and wishes are as well founded as they have been general, the late convention were justified in proposing to their constituents one confederate republic, as the best system of a national government for the United States.

In forming this system, it was proper to give minute



attention to the interests of all the parts; but there was a duty of still higher import—to feel and to show a predominating regard to the superior interests of the whole. If this great principle had not prevailed, the plan before us would never have made its appearance. The same principle that was so necessary in forming it, is equally necessary in our deliberations, whether we should reject or ratify it.

I make these observations with a design to prove and illustrate this great and important truth—that in our decisions on the work of the late convention, we should not limit our views and regards to the state of Pennsylvania. The aim of the convention was, to form a system of good and efficient government on the more extensive scale of the United States. In this, as in every other instance, the work should be judged with the same spirit with which it was performed. A principle of duty as well as of candor demands this.

We have remarked, that civil government is necessary to the perfection of society: we now remark, that civil liberty is necessary to the perfection of civil government. Civil liberty is natural liberty itself, divested only of that part, which, placed in the government, produces more good and happiness to the community, than if it had remained in the individual. Hence it follows, that civil liberty, while it resigns a part of natural liberty, retains the free and generous exercise of all the human faculties, so far as it is compatible with the public welfare.

In considering and developing the nature and end of the system before us, it is necessary to mention another kind of liberty, which has not yet, as far as I know, received a name. I shall distinguish it by the appellation of federal liberty. When a single government is instituted, the individuals, of which it is composed, surrender to it a part of their natural independence, which they before enjoyed as men. When a confederate republic is instituted, the communities, of

which it is composed, surrender to it a part of their political independence, which they before enjoyed as states. The principles which directed, in the former case, what part of the natural liberty of the man ought to be given up, and what part ought to be retained, will give similar directions in the latter case. The states should resign to the national government that part, and that part only, of their political liberty, which, placed in that government, will produce more good to the whole, than if it had remained in the several states. While they resign this part of their political liberty, they retain the free and generous exercise of all their other faculties as states, so far as it is compatible with the welfare of the general and superintending confederacy.

Since states as well as citizens are represented in the constitution before us, and form the objects on which that constitution is proposed to operate, it was necessary to notice and define federal as well as civil liberty.

These general reflections have been made in order to introduce, with more propriety and advantage, a practical illustration of the end proposed to be accomplished by the late convention.

It has been too well known—it has been too severely felt—that the present confederation is inadequate to the government and to the exigencies of the United States. The great struggle for liberty in this country, should it be unsuccessful, will probably be the last one which she will have for her existence and prosperity, in any part of the globe. And it must be confessed, that this struggle has, in some of the stages of its progress, been attended with symptoms that foreboded no fortunate issue. To the iron hand of tyranny, which was lifted up against her, she manifested, indeed, an intrepid superiority. She broke in pieces the fetters which were forged for her, and showed that she was unassailable by force. But she was environed by dangers of another kind, and springing from a very



different source. While she kept her eye steadily fixed on the efforts of oppression, licentiousness was secretly undermining the rock on which she stood.

Need I call to your remembrance the contrasted scenes, of which we have been witnesses? On the glorious conclusion of our conflict with Britain, what high expectations were formed concerning us by others! What high expectations did we form concerning ourselves! Have those expectations been realized? No. What has been the cause? Did our citizens lose their perseverance and magnanimity? No. Did they become insensible of resentment and indignation at any high handed attempt, that might have been made to injure or enslave them? No. What then has been the cause? The truth is, we dreaded danger only on one side: this we manfully repelled. But on another side, danger, not less formidable, but more insidious, stole in upon us; and our unsuspecting tempers were not sufficiently attentive, either to its approach or to its operations. Those, whom foreign strength could not overpower, have well nigh become the victims of internal anarchy.

If we become a little more particular, we shall find that the foregoing representation is by no means exaggerated. When we had baffled all the menaces of foreign power, we neglected to establish among ourselves a government, that would ensure domestic vigor and stability. What was the consequence? The commencement of peace was the commencement of every disgrace and distress, that could befall a people in a peaceful state. Devoid of national power, we could not prohibit the extravagance of our importations, nor could we derive a revenue from their excess. Devoid of national importance, we could not procure for our exports a tolerable sale at foreign markets. Devoid of national credit, we saw our public securities melt in the hands of the holders, like snow before the sun. Devoid of national dignity, we could not, in some instances, perform our treaties on our part:

and, in other instances, we could neither obtain nor compel the performance of them on the part of others. Devoid of national energy, we could not carry into execution our own resolutions, decisions, or laws.

Shall I become more particular still? The tedious detail would disgust me: nor is it now necessary. The years of languor are past. We have felt the dishonor, with which we have been covered: we have seen the destruction with which we have been threatened. We have penetrated to the causes of both, and when we have once discovered them, we have begun to search for the means of removing them. For the confirmation of these remarks, I need not appeal to an enumeration of facts. The proceedings of Congress, and of the several states, are replete with them. They all point out the weakness and insufficiency of the present confederation as the cause, and an efficient general government as the only cure of our political distempers.

Under these impressions, and with these views, was the late convention appointed; and under these impressions, and with these views, the late convention met.

We now see the great end which they proposed to accomplish. It was to frame, for the consideration of their constituents, one federal and national constitution—a constitution that would produce the advantages of good, and prevent the inconveniences of bad government—a constitution, whose beneficence and energy would pervade the whole union, and bind and embrace the interests of every part—a constitution that would ensure peace, freedom, and happiness, to the states and people of America.

We are now naturally led to examine the means, by which they proposed to accomplish this end. This opens more particularly to our view the important discussion before us. But previously to our entering upon it, it will not be improper to state some general and leading principles of government, which will receive



particular applications in the course of our investigations.

There necessarily exists in every government a power, from which there is no appeal; and which, for that reason, may be termed supreme, absolute, and uncontrollable. Where does this power reside? To this question, writers on different governments will give different answers. Sir William Blackstone will tell you, that in Britain, the power is lodged in the British parliament; that the parliament may alter the form of the government; and that its power is absolute and without control. The idea of a constitution, limiting and superintending the operations of legislative authority, seems not to have been accurately understood in Britain. There are, at least, no traces of practice, conformable to such a principle. The British constitution is just what the British parliament pleases. When the parliament transferred legislative authority to Henry the eighth, the act transferring it could not, in the strict acceptation of the term, be called unconstitutional.

To control the power and conduct of the legislature by an overruling constitution, was an improvement in the science and practice of government reserved to the American States.

Perhaps some politician, who has not considered, with sufficient accuracy, our political systems, would answer, that, in our governments, the supreme power is vested in the constitutions. This opinion approaches a step nearer to the truth, but does not reach it. The truth is, that, in our governments, the supreme, absolute, and uncontrollable power remains in the people. As our constitutions are superior to our legislatures; so the people are superior to our constitutions. Indeed, the superiority, in this last instance, is much greater; for the people possess, over our constitutions, control in act, as well as in right.

The consequence is, that the people may change the constitutions, whenever and however they please.

This is a right, of which no positive institution can ever deprive them.

These important truths, sir, are far from being merely speculative: we, at this moment, speak and deliberate under their immediate and benign influence. To the operation of these truths, we are to ascribe the scene, hitherto unparalleled, which America now exhibits to the world—a gentle, a peaceful, a voluntary, and a deliberate transition from one constitution of government to another. In other parts of the world, the idea of revolutions in government is, by a mournful and indissoluble association, connected with the idea of wars, and all the calamities attendant on wars. But happy experience teaches us to view such revolutions in a very different light—to consider them only as progressive steps in improving the knowledge of government, and increasing the happiness of society and mankind.

Oft have I viewed with silent pleasure and admiration, the force and prevalence, through the United States, of this principle—that the supreme power resides in the people; and that they never part with it. It may be called the panacea in politics. There can be no disorder in the community but may here receive a radical cure. If the error be in the legislature, it may be corrected by the constitution; if in the constitution, it may be corrected by the people. There is a remedy, therefore, for every distemper in government, if the people are not wanting to themselves. For a people wanting to themselves, there is no remedy: from their power, as we have seen, there is no appeal: to their error, there is no superior principle of correction.

There are three simple species of government—monarchy, where the supreme power is in a single person—aristocracy, where the supreme power is in a select assembly, the members of which either fill up, by election, the vacancies in their own body, or succeed to their places in it by inheritance, property, or in



respect of some personal right or qualification—a republic or democracy, where the people at large retain the supreme power, and act either collectively or by representation. Each of these species of government has its advantages and disadvantages.

The advantages of a monarchy are, strength, despatch, secrecy, unity of counsel. Its disadvantages are, tyranny, expense, ignorance of the situation and wants of the people, insecurity, unnecessary wars, evils attending elections or successions.

The advantage of aristocracy is, wisdom, arising from experience and education. Its disadvantages are, dissensions among themselves, oppression to the lower orders.

The advantages of democracy are, liberty, equal, cautious and salutary laws, public spirit, frugality, peace, opportunities of exciting and producing the abilities of the best citizens. Its disadvantages are, dissensions, the delay and disclosure of public counsels, the imbecility of public measures retarded by the necessity of a numerous consent.

A government may be composed of two or more of the simple forms above mentioned. Such is the British government. It would be an improper government for the United States; because it is inadequate to such an extent of territory; and because it is suited to an establishment of different orders of men. A more minute comparison between some parts of the British constitution, and some parts of the plan before us, may, perhaps, find a proper place in a subsequent period of our business.

What is the nature and kind of that government, which has been proposed for the United States, by the late convention? In its principle, it is purely democratical: but that principle is applied in different forms, in order to obtain the advantages, and exclude the inconveniences of the simple modes of government.

If we take an extended and accurate view of it, we shall find the streams of power running in different

directions, in different dimensions, and at different heights, watering, adorning, and fertilizing the fields and meadows, through which their courses are led; but if we trace them, we shall discover, that they all originally flow from one abundant fountain. In this constitution, all authority is derived from THE PEOPLE.

Fit occasions will hereafter offer for particular remarks on the different parts of the plan. I have now to ask pardon of the house for detaining them so long.



# SPEECH OF ALEXANDER HAMILTON,

ON THE EXPEDIENCY OF ADOPTING THE

FEDERAL CONSTITUTION,

DELIVERED IN THE CONVENTION OF NEW YORK, JUNE 20, 1788.



The second section of the first article of the constitution having been read, the following amendment was proposed :

“ *Resolved*, That it is proper that the number of representatives be fixed at the rate of one for every twenty thousand inhabitants, to be ascertained on the principles mentioned in the second section of the first article of the constitution, until they amount to three hundred ; after which, they shall be apportioned among the states, in proportion to the number of inhabitants of the states respectively : and that before the first enumeration shall be made, the several states shall be entitled to choose double the number of representatives for that purpose, mentioned in the constitution ;” when Mr. Hamilton addressed the convention as follows.—

MR. CHAIRMAN,

THE honorable member, who spoke yesterday, went into an explanation of a variety of circumstances to prove the expediency of a change in our national government, and the necessity of a firm union : at the same time, he described the great advantages which this state, in particular, receives from the confederacy, and its peculiar weaknesses when abstracted from the union. In doing this, he advanced a variety of arguments, which deserve serious consideration. Gentlemen have this day come forward to answer him. He

has been treated as having wandered in the flowery fields of fancy; and attempts have been made, to take off from the minds of the committee, that sober impression, which might be expected from his arguments. I trust, sir, that observations of this kind are not thrown out to cast a light air on this important subject; or to give any personal bias, on the great question before us. I will not agree with gentlemen, who trifle with the weaknesses of our country; and suppose, that they are enumerated to answer a party purpose, and to terrify with ideal dangers. No; I believe these weaknesses to be real, and pregnant with destruction. Yet, however weak our country may be, I hope we shall never sacrifice our liberties. If, therefore, on a full and candid discussion, the proposed system shall appear to have that tendency, for God's sake, let us reject it. But, let us not mistake words for things, nor accept doubtful surmises as the evidence of truth. Let us consider the constitution calmly and dispassionately, and attend to those things only which merit consideration.

No arguments drawn from embarrassment or inconvenience ought to prevail upon us to adopt a system of government radically bad; yet it is proper that these arguments, among others, should be brought into view. In doing this, yesterday, it was necessary to reflect upon our situation; to dwell upon the imbecility of our union; and to consider whether we, as a state, could stand alone. Although I am persuaded this convention will be resolved to adopt nothing that is bad; yet I think every prudent man will consider the merits of the plan in connexion with the circumstances of our country; and that a rejection of the constitution may involve most fatal consequences. I make these remarks to show, that though we ought not to be actuated by unreasonable fear, yet we ought to be prudent.

This day, sir, one gentleman has attempted to answer the arguments advanced by my honorable friend;



another has treated him as having wandered from the subject: this being the case, I trust I shall be equally indulged in reviewing the remarks which have been made.

Sir, it appears to me extraordinary, that while gentlemen in one breath acknowledge, that the old confederation requires many material amendments, they should in the next deny, that its defects have been the cause of our political weakness, and the consequent calamities of our country. I cannot but infer from this, that there is still some lurking, favorite imagination, that this system, with corrections, might become a safe and permanent one. It is proper that we should examine this matter. We contend that the radical vice in the old confederation is, that the laws of the union apply only to states in their corporate capacity. Has not every man, who has been in our legislature, experienced the truth of this position? It is inseparable from the disposition of bodies, who have a constitutional power of resistance, to examine the merits of a law. This has ever been the case with the federal requisitions. In this examination, not being furnished with those lights, which directed the deliberations of the general government, and incapable of embracing the general interests of the union, the states have almost uniformly weighed the requisitions by their own local interests, and have only executed them so far as answered their particular convenience or advantage. Hence there have ever been thirteen different bodies to judge of the measures of Congress—and the operations of government have been distracted by their taking different courses: those, which were to be benefitted, have complied with the requisitions; others have totally disregarded them. Have not all of us been witnesses to the unhappy embarrassments which resulted from these proceedings? Even during the late war, while the pressure of common danger connected strongly the bond of our union, and incited to vigorous exertions, we have felt many distressing ef-

fects of the impotent system. How have we seen this state, though most exposed to the calamities of the war, complying, in an unexampled manner, with the federal requisitions, and compelled by the delinquency of others, to bear most unusual burdens. Of this truth, we have the most solemn proof on our records. In 1779 and 1780, when the state, from the ravages of war, and from her great exertions to resist them, became weak, distressed, and forlorn, every man avowed the principle which we now contend for; that our misfortunes, in a great degree, proceeded from the want of vigor in the continental government. These were our sentiments when we did not speculate, but feel. We saw our weakness, and found ourselves its victims. Let us reflect that this may again, in all probability, be our situation. This is a weak state; and its relative station is dangerous. Your capital is accessible by land, and by sea is exposed to every daring invader; and on the north-west, you are open to the inroads of a powerful foreign nation. Indeed, this state, from its situation, will, in time of war, probably be the theatre of its operations.

Gentlemen have said that the non-compliance of the states has been occasioned by their sufferings. This may in part be true. But has this state been delinquent? Amidst all our distresses, we have fully complied. If New York could comply wholly with the requisitions, is it not to be supposed, that the other states could in part comply? Certainly every state in the union might have executed them in some degree. But New Hampshire, who has not suffered at all, is totally delinquent: North Carolina is totally delinquent: many others have contributed in a very small proportion; and Pennsylvania and New York are the only states, which have perfectly discharged their federal duty.

From the delinquency of those states who have suffered little by the war, we naturally conclude, that they have made no efforts; and a knowledge of human



nature will teach us, that their ease and security have been a principal cause of their want of exertion. While danger is distant, its impression is weak, and while it affects only our neighbors, we have few motives to provide against it. Sir, if we have national objects to pursue, we must have national revenues. If you make requisitions and they are not complied with, what is to be done? It has been well observed, that to coerce the states is one of the maddest projects that was ever devised. A failure of compliance will never be confined to a single state: this being the case, can we suppose it wise to hazard a civil war? Suppose Massachusetts, or any large state, should refuse, and Congress should attempt to compel them; would they not have influence to procure assistance, especially from those states who are in the same situation as themselves? What picture does this idea present to our view? A complying state at war with a non-complying state: Congress marching the troops of one state into the bosom of another: this state collecting auxiliaries and forming perhaps a majority against its federal head. Here is a nation at war with itself. Can any reasonable man be well disposed towards a government which makes war and carnage the only means of supporting itself—a government that can exist only by the sword? Every such war must involve the innocent with the guilty. This single consideration should be sufficient to dispose every peaceable citizen against such a government.

But can we believe that one state will ever suffer itself to be used as an instrument of coercion? The thing is a dream—it is impossible—then we are brought to this dilemma: either a federal standing army is to enforce the requisitions, or the federal treasury is left without supplies, and the government without support. What, sir, is the cure for this great evil? Nothing, but to enable the national laws to operate on individuals, in the same manner as those of the states do. This is the true reasoning upon the subject, sir.

The gentlemen appear to acknowledge its force; and yet while they yield to the principle, they seem to fear its application to the government.

What then shall we do? Shall we take the old confederation, as the basis of a new system? Can this be the object of the gentlemen? Certainly not. Will any man who entertains a wish for the safety of his country, trust the sword and the purse with a single assembly organized on principles so defective—so rotten? Though we might give to such a government certain powers, with safety, yet to give them the full and unlimited powers of taxation and the national forces, would be to establish a despotism; the definition of which is, a government in which all power is concentrated in a single body. To take the old confederation, and fashion it upon these principles, would be establishing a power which would destroy the liberties of the people. These considerations show clearly, that a government totally different must be instituted. They had weight in the convention which formed the new system. It was seen, that the necessary powers were too great to be trusted to a single body: they therefore formed two branches, and divided the powers, that each might be a check upon the other. This was the result of their wisdom; and I presume that every reasonable man will agree to it. The more this subject is explained, the more clear and convincing it will appear to every member of this body. The fundamental principle of the old confederation is defective—we must totally eradicate and discard this principle before we can expect an efficient government. The gentlemen who have spoken to-day, have taken up the subject of the ancient confederacies: but their view of them has been extremely partial and erroneous. The fact is, the same false and impracticable principle ran through most of the ancient governments. The first of these governments that we read of, was the Amphietyonic confederacy. The council which managed the affairs of this league, possessed powers



of a similar complexion to those of our present Congress. The same feeble mode of legislation in the head, and the same power of resistance in the members, prevailed. When a requisition was made, it rarely met a compliance; and a civil war was the consequence. Those which were attacked, called in foreign aid to protect them; and the ambitious Philip, under the mask of an ally to one, invaded the liberties of each, and finally subverted the whole.

The operation of this principle appears in the same light in the Dutch Republics. They have been obliged to levy taxes by an armed force. In this confederacy, one large province, by its superior wealth and influence, is commonly a match for all the rest; and when they do not comply, the province of Holland is obliged to compel them. It is observed, that the United Provinces have existed a long time; but they have been constantly the sport of their neighbors, and have been supported only by the external pressure of the surrounding powers. The policy of Europe, not the policy of their government, has saved them from dissolution. Besides, the powers of the Stadtholder have served to give an energy to the operations of this government, which is not to be found in ours. This prince has a vast personal influence: he has independent revenues: he commands an army of forty thousand men.

The German confederacy has also been a perpetual source of wars. They have a diet, like our Congress, who have authority to call for supplies: these calls are never obeyed; and in time of war, the imperial army never takes the field till the enemy are returning from it. The emperor's Austrian dominions, in which he is an absolute prince, alone enable him to make head against the common foe. The members of this confederacy are ever divided and opposed to each other. The king of Prussia is a member; yet he has been constantly in opposition to the emperor. Is this a desirable government?

I might go more particularly into the discussion of examples and show, that wherever this fatal principle has prevailed, even as far back as the Lycian and Achæan leagues, as well as the Amphictyonic confederacy; it has proved the destruction of the government. But I think observations of this kind might have been spared. Had they not been entered into by others, I should not have taken up so much of the time of the committee. No inference can be drawn from these examples, that republics cannot exist: we only contend that they have hitherto been founded on false principles. We have shown how they have been conducted, and how they have been destroyed. Weakness in the head has produced resistance in the members: this has been the immediate parent of civil war: auxiliary force has been invited; and a foreign power has annihilated their liberties and their name. Thus Philip subverted the Amphictyonic, and Rome the Achæan Republic.

We shall do well, sir, not to deceive ourselves with the favorable events of the late war. Common danger prevented the operation of the ruinous principle, in its full extent: but, since the peace, we have experienced the evils; we have felt the poison of the system in its unmingled purity.

Without dwelling any longer on this subject, I shall proceed to the question immediately before the committee.

In order that the committee may understand clearly the principles on which the general convention acted, I think it necessary to explain some preliminary circumstances.

Sir, the natural situation of this country seems to divide its interests into different classes. There are navigating and non-navigating states—the northern are properly the navigating states: the southern appear to possess neither the means nor the spirit of navigation. This difference of situation naturally produces a dissimilarity of interests and views respecting



foreign commerce. It was the interest of the northern states, that there should be no restraints on their navigation, and that they should have full power, by a majority in Congress, to make commercial regulations in favor of their own, and in restraint of the navigation of foreigners. The southern states wished to impose a restraint on the northern, by requiring that two-thirds in Congress, should be requisite to pass an act in regulation of commerce: they were apprehensive that the restraints of a navigation law would discourage foreigners, and by obliging them to employ the shipping of the northern states, would probably enhance their freight. This being the case, they insisted strenuously on having this provision engrafted in the constitution; and the northern states were as anxious in opposing it. On the other hand, the small states seeing themselves embraced by the confederation upon equal terms, wished to retain the advantages which they already possessed: the large states, on the contrary, thought it improper that Rhode Island and Delaware should enjoy an equal suffrage with themselves: from these sources a delicate and difficult contest arose. It became necessary, therefore, to compromise; or the convention must have dissolved without effecting any thing. Would it have been wise and prudent in that body, in this critical situation, to have deserted their country? No. Every man who hears me—every wise man in the United States, would have condemned them. The convention were obliged to appoint a committee for accommodation. In this committee the arrangement was formed as it now stands; and their report was accepted. It was a delicate point; and it was necessary that all parties should be indulged. Gentlemen will see, that if there had not been unanimity, nothing could have been done: for the convention had no power to establish, but only to recommend a government. Any other system would have been impracticable. Let a convention be called to-morrow—let them meet twenty times;

may, twenty thousand times; they will have the same difficulties to encounter; the same clashing interests to reconcile.

But, dismissing these reflections, let us consider how far the arrangement is in itself entitled to the approbation of this body. We will examine it upon its own merits.

The first thing objected to, is that clause which allows a representation for three-fifths of the negroes. Much has been said of the impropriety of representing men, who have no will of their own. Whether this be reasoning or declamation, I will not presume to say. It is the unfortunate situation of the southern states, to have a great part of their population, as well as property, in blacks. The regulation complained of, was one result of the spirit of accommodation, which governed the convention; and without this indulgence, no union could possibly have been formed. But, sir, considering some peculiar advantages which we derive from them, it is entirely just that they should be gratified. The southern states possess certain staples, tobacco, rice, indigo, &c. which must be capital objects in treaties of commerce with foreign nations; and the advantage which they necessarily procure in these treaties, will be felt throughout all the states. But the justice of this plan will appear in another view. The best writers on government have held, that representation should be compounded of persons and property. This rule has been adopted, as far as it could be, in the constitution of New York. It will, however, by no means be admitted, that the slaves are considered altogether as property. They are men, though degraded to the condition of slavery. They are persons known to the municipal laws of the states which they inhabit, as well as to the laws of nature. But representation and taxation go together—and one uniform rule ought to apply to both. Would it be just to compute these slaves in the assessment of taxes, and discard them from the estimate



in the apportionment of representatives? Would it be just to impose a singular burden, without conferring some adequate advantage?

Another circumstance ought to be considered. The rule we have been speaking of, is a general rule, and applies to all the states. Now, you have a great number of people in your state, which are not represented at all; and have no voice in your government: these will be included in the enumeration—not two-fifths—nor three-fifths, but the whole. This proves that the advantages of the plan are not confined to the southern states, but extend to other parts of the Union.

I now proceed to consider the objection with regard to the number of representatives, as it now stands; I am persuaded the system, in this respect, stands on a better footing than the gentlemen imagine.

It has been asserted, that it will be in the power of Congress to reduce the number. I acknowledge, that there are no direct words of prohibition. But I contend, that the true and genuine construction of the clause, gives Congress no power whatever to reduce the representation below the number, as it now stands. Although they may limit, they can never diminish the number. One representative for every thirty thousand inhabitants is fixed as the standard of increase; till, by the natural course of population, it shall become necessary to limit the ratio. Probably, at present, were this standard to be immediately applied, the representation would considerably exceed sixty-five. In three years it would exceed one hundred. If I understand the gentlemen, they contend that the number may be enlarged or may not. I admit that this is in the discretion of Congress; and I submit to the committee, whether it be not necessary and proper. Still, I insist, that an immediate limitation is not probable, nor was it in the contemplation of the convention. But, sir, who will presume to say, to what precise point the representation ought to be increased? This is a

matter of opinion; and opinions are vastly different upon the subject. A proof of this is drawn from the representations in the state legislatures. In Massachusetts, the assembly consists of about three hundred—in South Carolina, of nearly one hundred—in New York there are sixty-five. It is observed generally, that the number ought to be large; let the gentlemen produce their criterion. I confess it is difficult for me to say what number may be said to be sufficiently large. On one hand, it ought to be considered, that a small number will act with more facility, system and decision: on the other, that a large one may enhance the difficulty of corruption. The Congress is to consist, at first, of ninety-one members. This, to a reasonable man, may appear to be as near the proper medium as any number whatever; at least, for the present. There is one source of increase, also, which does not depend upon any constructions of the constitution; it is the creation of new states. Vermont, Kentucky and Franklin, will probably become independent; new members of the union will also be formed from the unsettled tracts of western territory. These must be represented, and will all contribute to swell the federal legislature. If the whole number in the United States be, at present, three millions, as is commonly supposed, according to the ratio of one for thirty thousand, we shall have on the first census, a hundred representatives. In ten years, thirty more will be added; and in twenty-five years, the number will double: then, sir, we shall have two hundred, if the increase goes on in the same proportion. The convention of Massachusetts, who made the same objection, have fixed upon this number as the point at which they chose to limit the representation. But can we pronounce with certainty, that it will not be expedient to go beyond this number? We cannot. Experience alone must determine. This matter may, with more safety, be left to the discretion of the legislature, as it will be the interest of the large and in-



creasing states, of Massachusetts, New York, Pennsylvania, &c. to augment the representation. Only Connecticut, Rhode Island, Delaware, and Maryland, can be interested in limiting it. We may, therefore, safely calculate upon a growing representation, according to the advance of population, and the circumstances of the country.

The state governments possess inherent advantages, which will ever give them an influence and ascendancy over the national government; and will for ever preclude the possibility of federal encroachments. That their liberties indeed can be subverted by the federal head, is repugnant to every rule of political calculation. Is not this arrangement then, sir, a most wise and prudent one? Is not the present representation fully adequate to our present exigencies; and sufficient to answer all the purposes of the union? I am persuaded that an examination of the objects of the federal government will afford a conclusive answer.

Many other observations might be made on this subject, but I cannot now pursue them; for I feel myself not a little exhausted: I beg leave, therefore, to waive for the present the further discussion of the question.

On the 21st, Mr. Hamilton continued his remarks as follows :

When I had the honor to address the committee yesterday, I gave a history of the circumstances which attended the convention, when forming the plan before you. I endeavored to point out to you the principles of accommodation, on which this arrangement was made, and to show that the contending interests of the states led them to establish the representation as it now stands. In the second place, I attempted to prove, that, in point of number, the representation would be perfectly secure. Sir, no man agrees more perfectly than myself to the main principle for which the gentlemen contend. I agree

that there should be a broad democratic branch in the national legislature. But this matter, sir, depends on circumstances. It is impossible, in the first instance, to be precise and exact with regard to the number; and it is equally impossible to determine to what point it may be proper in future to increase it. On this ground I am disposed to acquiesce. In my reasonings on the subject of government, I rely more on the interests and opinions of men, than on any speculative parchment provisions whatever. I have found, that constitutions are more or less excellent, as they are more or less agreeable to the natural operation of things. I am therefore disposed not to dwell long on curious speculations, or pay much attention to modes and forms; but to adopt a system, whose principles have been sanctioned by experience, adapt it to the real state of our country, and depend on probable reasonings for its operation and result. I contend that sixty-five and twenty-six in two bodies, afford perfect security, in the present state of things; and that the regular progressive enlargement, which was in the contemplation of the general convention, will not leave an apprehension of danger in the most timid and suspicious mind. It will be the interest of the large states to increase the representation. This will be the standing instruction to their delegates. But, say the gentlemen, the members of Congress will be interested not to increase the number, as it will diminish their relative influence. In all their reasoning upon the subject, there seems to be this fallacy: they suppose that the representative will have no motive of action, on the one side, but a sense of duty; or on the other, but corruption. They do not reflect, that he is to return to the community; that he is dependent on the will of the people, and that it cannot be his interest to oppose their wishes. Sir, the general sense of the people will regulate the conduct of their representatives. I admit that there are exceptions to this rule—there are certain conjunctures, when it may be



necessary and proper to disregard the opinions which the majority of the people have formed. But in the general course of things, the popular views, and even prejudices, will direct the actions of the rulers.

All governments, even the most despotic, depend, in a great degree, on opinion. In free republics, it is most peculiarly the case. In these, the will of the people makes the essential principle of the government; and the laws which control the community, receive their tone and spirit from the public wishes. It is the fortunate situation of our country, that the minds of the people are exceedingly enlightened and refined. Here then we may expect the laws to be proportionably agreeable to the standard of perfect policy; and the wisdom of public measures to consist with the most intimate conformity between the views of the representative and his constituent. If the general voice of the people be for an increase, it undoubtedly must take place. They have it in their power to instruct their representatives; and the state legislatures, which appoint the senators, may enjoin it also upon them. Sir, if I believed that the number would remain at sixty-five, I confess I should give my vote for an amendment; though in a different form from the one proposed.

The amendment proposes a ratio of one for twenty thousand. I would ask, by what rule or reasoning it is determined, that one man is a better representative for twenty than thirty thousand? At present we have three millions of people; in twenty-five years, we shall have six millions; and in forty years, nine millions: and this is a short period, as it relates to the existence of states. Here then, according to the ratio of one for thirty thousand, we shall have, in forty years, three hundred representatives. If this be true, and if this be a safe representation, why be dissatisfied? Why embarrass the constitution with amendments, that are merely speculative and useless? I agree with the gentleman, that a very small number

might give some color for suspicion : I acknowledge, that ten would be unsafe ; on the other hand, a thousand would be too numerous. But I ask him, why will not ninety-one be an adequate and safe representation ? This at present appears to be the proper medium. Besides, the president of the United States will be himself the representative of the people. From the competition that ever subsists between the branches of government, the President will be induced to protect their rights, whenever they are invaded by either branch. On whatever side we view this subject, we discover various and powerful checks to the encroachments of Congress. The true and permanent interests of the members are opposed to corruption : their number is vastly too large for easy combination : the rivalry between the houses will for ever prove an insuperable obstacle : the people have an obvious and powerful protection in their state governments. Should any thing dangerous be attempted, these bodies of perpetual observation, will be capable of forming and conducting plans of regular opposition. Can we suppose the people's love of liberty will not, under the incitement of their legislative leaders, be roused into resistance, and the madness of tyranny be extinguished at a blow ? Sir, the danger is too distant ; it is beyond all rational calculation.

It has been observed by an honorable gentleman, that a pure democracy, if it were practicable, would be the most perfect government. Experience has proved, that no position in politics is more false than this. The ancient democracies, in which the people themselves deliberated, never possessed one feature of good government. Their very character was tyranny ; their figure deformity. When they assembled, the field of debate presented an ungovernable mob, not only incapable of deliberation, but prepared for every enormity. In these assemblies, the enemies of the people brought forward their plans of ambition systematically. They were opposed by their enemies, of



another party ; and it became a matter of contingency, whether the people subjected themselves to be led blindly by one tyrant or by another.

It was remarked yesterday, that a numerous representation was necessary to obtain the confidence of the people. This is not generally true. The confidence of the people will easily be gained by a good administration. This is the true touchstone. I could illustrate the position, by a variety of historical examples, both ancient and modern. In Sparta, the Ephori were a body of magistrates, instituted as a check upon the senate, and representing the people. They consisted of only five men ; but they were able to protect their rights, and therefore enjoyed their confidence and attachment. In Rome, the people were represented by three Tribunes, who were afterwards increased to ten. Every one acquainted with the history of that republic, will recollect how powerful a check to the senatorial encroachments, this small body proved ; how unlimited a confidence was placed in them by the people whose guardians they were ; and to what a conspicuous station in the government their influence at length elevated the plebeians. Massachusetts has three hundred representatives ; New York has sixty-five. Have the people in this state less confidence in their representation than the people of that ? Delaware has twenty-one : do the inhabitants of New York feel a higher confidence than those of Delaware ? I have stated these examples, to prove that the gentleman's principle is not just. The popular confidence depends on circumstances very distinct from considerations of number. Probably the public attachment is more strongly secured by a train of prosperous events, which are the result of wise deliberation and vigorous execution, and to which large bodies are much less competent than small ones. If the representative conducts with propriety, he will necessarily enjoy the good will of the constituent. It appears then, if my reasoning be just, that the clause is perfect-

ly proper, upon the principles of the gentleman who contends for the amendment; as there is in it the greatest degree of present security, and a moral certainty of an increase equal to our utmost wishes.

It has been further, by the gentlemen in opposition, observed, that a large representation is necessary to understand the interests of the people. This principle is by no means true, in the extent to which the gentlemen seem to carry it. I would ask, why may not a man understand the interests of thirty as well as of twenty? The position appears to be made upon the unfounded presumption, that all the interests of all parts of the community must be represented. No idea is more erroneous than this. Only such interests are proper to be represented, as are involved in the powers of the general government. These interests come completely under the observation of one, or a few men; and the requisite information is by no means augmented in proportion to the increase of number. What are the objects of the government? Commerce, taxation, &c. In order to comprehend the interests of commerce, is it necessary to know how wheat is raised, and in what proportion it is produced in one district and in another? By no means. Neither is this species of knowledge necessary in general calculations upon the subject of taxation. The information necessary for these purposes, is that which is open to every intelligent inquirer; and of which, five men may be as perfectly possessed as fifty. In royal governments, there are usually particular men to whom the business of taxation is committed. These men have the forming of systems of finance; and the regulation of the revenue. I do not mean to commend this practice. It proves, however, this point; that a few individuals may be competent to these objects; and that large numbers are not necessary to perfection in the science of taxation. But granting for a moment, that this minute and local knowledge, the gentlemen contend for, is necessary, let us see, if under the new constitu-



tion, it will not probably be found in the representation. The natural and proper mode of holding elections, will be to divide the state into districts, in proportion to the number to be elected. This state will consequently be divided, at first, into six. One man from each district will probably possess all the knowledge gentlemen can desire. Are the senators of this state more ignorant of the interests of the people, than the assembly? Have they not ever enjoyed their confidence as much? Yet, instead of six districts, they are elected in four; and the chance of their being collected from the smaller divisions of the state consequently diminished. Their number is but twenty-four; and their powers are co-extensive with those of the assembly, and reach objects, which are most dear to the people—life, liberty and property.

Sir, we hear constantly a great deal, which is rather calculated to awake our passions, and create prejudices, than to conduct us to the truth, and teach us our real interests. I do not suppose this to be the design of the gentlemen. Why then are we told so often of an aristocracy? For my part, I hardly know the meaning of this word as it is applied. If all we hear be true, this government is really a very bad one. But who are the aristocracy among us? Where do we find men, elevated to a perpetual rank above their fellow-citizens; and possessing powers entirely independent of them? The arguments of the gentlemen only go to prove that there are men who are rich, men who are poor; some who are wise, and others who are not. That indeed every distinguished man is an aristocrat. This reminds me of a description of the aristocrats, I have seen in a late publication, styled the *Federal Farmer*. The author reckons in the aristocracy, all governors of states, members of congress, chief magistrates, and all officers of the militia. This description, I presume to say, is ridiculous. The image is a phantom. Does the new government render a rich man more eligible than a poor

one? No. It requires no such qualification. It is bottomed on the broad and equal principle of your state constitution.

Sir, if the people have it in their option, to elect their most meritorious men, is this to be considered as an objection? Shall the constitution oppose their wishes, and abridge their most invaluable privilege? While property continues to be pretty equally divided, and a considerable share of information pervades the community, the tendency of the people's suffrages, will be to elevate merit even from obscurity. As riches increase and accumulate in few hands; as luxury prevails in society, virtue will be in a greater degree considered as only a graceful appendage of wealth, and the tendency of things will be to depart from the republican standard. This is the real disposition of human nature: it is what neither the honorable member nor myself can correct; it is a common misfortune, that awaits our state constitution, as well as all others.

There is an advantage incident to large districts of election, which perhaps the gentlemen, amidst all their apprehensions of influence and bribery, have not adverted to. In large districts, the corruption of the electors is much more difficult. Combinations for the purposes of intrigue are less easily formed: factions and cabals are little known. In a small district, wealth will have a more complete influence; because the people in the vicinity of a great man, are more immediately his dependants, and because this influence has fewer objects to act upon. It has been remarked, that it would be disagreeable to the middle class of men to go to the seat of the new government. If this be so, the difficulty will be enhanced by the gentleman's proposal. If his argument be true, it proves, that the larger the representation is, the less will be your choice of having it filled. But, it appears to me frivolous to bring forward such arguments as these. It has answered no other purpose, than to induce me,



by way of reply, to enter into discussions, which I consider as useless, and not applicable to our subject.

It is a harsh doctrine, that men grow wicked in proportion as they improve and enlighten their minds. Experience has by no means justified us in the supposition, that there is more virtue in one class of men than in another. Look through the rich and the poor of the community; the learned and the ignorant. Where does virtue predominate? The difference indeed consists, not in the quantity but kind of vices, which are incident to various classes; and here the advantage of character belongs to the wealthy. Their vices are probably more favorable to the prosperity of the state, than those of the indigent, and partake less of moral depravity.

After all, sir, we must submit to this idea, that the true principle of a republic is, that the people should choose whom they please to govern them. Representation is imperfect, in proportion as the current of popular favor is checked. This great source of free government, popular election, should be perfectly pure, and the most unbounded liberty allowed. Where this principle is adhered to; where, in the organization of the government, the legislative, executive and judicial branches are rendered distinct; where again the legislative is divided into separate houses, and the operations of each are controlled by various checks and balances, and above all, by the vigilance and weight of the state governments; to talk of tyranny, and the subversion of our liberties, is to speak the language of enthusiasm. This balance between the national and state governments ought to be dwelt on with peculiar attention, as it is of the utmost importance. It forms a double security to the people. If one encroaches on their rights, they will find a powerful protection in the other. Indeed, they will both be prevented from overpassing their constitutional limits, by a certain rivalry, which will ever subsist between them. I am persuaded, that a firm union is as necessary to perpetuate

our liberties, as it is to make us respectable; and experience will probably prove, that the national government will be as natural a guardian of our freedom, as the state legislatures themselves.

Suggestions, sir, of an extraordinary nature, have been frequently thrown out in the course of the present political controversy. It gives me pain to dwell on topics of this kind; and I wish they might be dismissed. We have been told, that the old confederation has proved inefficacious, only because intriguing and powerful men, aiming at a revolution, have been forever instigating the people, and rendering them disaffected with it. This, sir, is a false insinuation. The thing is impossible. I will venture to assert, that no combination of designing men under Heaven, will be capable of making a government unpopular, which is in its principles a wise and good one, and vigorous in its operations.

The confederation was framed amidst the agitation and tumult of society. It was composed of unsound materials put together in haste. Men of intelligence discovered the feebleness of the structure, in the first stages of its existence; but the great body of the people, too much engrossed with their distresses, to contemplate any but the immediate causes of them, were ignorant of the defects of their constitution. But when the dangers of war were removed, they saw clearly what they had suffered, and what they had yet to suffer, from a feeble form of government. There was no need of discerning men to convince the people of their unhappy situation; the complaint was co-extensive with the evil, and both were common to all classes of the community. We have been told, that the spirit of patriotism, and love of liberty, are almost extinguished among the people; and that it has become a prevailing doctrine, that republican principles ought to be hooted out of the world. Sir, I am confident that such remarks as these are rather occasioned by the heat of argument, than by a cool conviction of their truth and



justice. As far as my experience has extended, I have heard no such doctrine, nor have I discovered any diminution of regard for those rights and liberties, in defence of which, the people have fought and suffered. There have been, undoubtedly, some men who have had speculative doubts on the subject of government; but the principles of republicanism are founded on too firm a basis to be shaken by a few speculative and sceptical reasoners. Our error has been of a very different kind. We have erred through excess of caution, and a zeal false and impracticable. Our counsels have been destitute of consistency and stability. I am flattered with a hope, sir, that we have now found a cure for the evils under which we have so long labored. I trust, that the proposed constitution affords a genuine specimen of representative and republican government, and that it will answer, in an eminent degree, all the beneficial purposes of society.

# SPEECH OF ALEXANDER HAMILTON,

ON THE EXPEDIENCY OF ADOPTING THE

FEDERAL CONSTITUTION,

DELIVERED IN THE CONVENTION OF NEW YORK, JUNE 24th, 1788.



The following speech was made in opposition to a resolution brought forward by Mr. G. Livingston, as an amendment to the constitution, which proposed ; That no person should be eligible as a senator for more than six years, in any term of twelve years, and that the legislatures of the several states should have power to recall their senators, or either of them, and to elect others in their stead, to serve for the remainder of the time for which such senator, or senators, so recalled, were appointed.

I AM persuaded, Mr. Chairman, that I in my turn shall be indulged, in addressing the committee. We all, in equal sincerity, profess to be anxious for the establishment of a republican government, on a safe and solid basis. It is the object of the wishes of every honest man in the United States, and I presume I shall not be disbelieved, when I declare, that it is an object of all others, the nearest and most dear to my own heart. The means of accomplishing this great purpose, become the most important study which can interest mankind. It is our duty to examine all those means with peculiar attention, and to choose the best and most effectual. It is our duty to draw from



nature, from reason, from examples, the best principles of policy, and to pursue and apply them in the formation of our government. We should contemplate and compare the systems, which, in this examination, come under our view; distinguish, with a careful eye, the defects and excellencies of each, and discarding the former, incorporate the latter, as far as circumstances will admit, into our constitution. If we pursue a different course and neglect this duty, we shall probably disappoint the expectations of our country and of the world.

In the commencement of a revolution, which received its birth from the usurpations of tyranny, nothing was more natural, than that the public mind should be influenced by an extreme spirit of jealousy. To resist these encroachments, and to nourish this spirit, was the great object of all our public and private institutions. The zeal for liberty became predominant and excessive. In forming our confederation, this passion alone seemed to actuate us, and we appear to have had no other view than to secure ourselves from despotism. The object certainly was a valuable one, and deserved our utmost attention. But, sir, there is another object, equally important, and which our enthusiasm rendered us little capable of regarding: I mean a principle of strength and stability in the organization of our government, and vigor in its operations. This purpose can never be accomplished but by the establishment of some select body, formed peculiarly upon this principle. There are few positions more demonstrable than that there should be in every republic, some permanent body to correct the prejudices, check the intemperate passions, and regulate the fluctuations of a popular assembly. It is evident, that a body instituted for these purposes, must be so formed as to exclude as much as possible from its own character, those infirmities, and that mutability which it is designed to remedy. It is therefore necessary that it should be small, that it should hold its autho-

city during a considerable period, and that it should have such an independence in the exercise of its powers, as will divest it as much as possible of local prejudices. It should be so formed as to be the centre of political knowledge, to pursue always a steady line of conduct, and to reduce every irregular propensity to system. Without this establishment, we may make experiments without end, but shall never have an efficient government.

It is an unquestionable truth, that the body of the people in every country desire sincerely its prosperity : but it is equally unquestionable, that they do not possess the discernment and stability necessary for systematic government. To deny that they are frequently led into the grossest errors by misinformation and passion, would be a flattery which their own good sense must despise. That branch of administration especially, which involves our political relations with foreign states, a community will ever be incompetent to. These truths are not often held up in public assemblies ; but they cannot be unknown to any who hear me. From these principles it follows, that there ought to be two distinct bodies in our government ; one, which shall be immediately constituted by and peculiarly represent the people, and possess all the popular features ; another, formed upon the principle, and for the purposes before explained. Such considerations as these induced the convention who formed your state constitution, to institute a senate upon the present plan. The history of ancient and modern republics had taught them, that many of the evils which these republics suffered, arose from the want of a certain balance and mutual control indispensable to a wise administration ; they were convinced that popular assemblies are frequently misguided by ignorance, by sudden impulses and the intrigues of ambitious men ; and that some firm barrier against these operations was necessary : they, therefore, instituted your



senate, and the benefits we have experienced, have fully justified their conceptions.

Now, sir, what is the tendency of the proposed amendment? To take away the stability of government by depriving the senate of its permanency; to make this body subject to the same weakness and prejudices, which are incident to popular assemblies, and which it was instituted to correct; and by thus assimilating the complexion of the two branches, destroy the balance between them. The amendment will render the senator a slave to all the capricious humors among the people. It will probably be here suggested, that the legislatures, not the people, are to have the power of recall. Without attempting to prove that the legislatures must be, in a great degree, the image of the multitude, in respect to federal affairs, and that the same prejudices and factions will prevail; I insist, that in whatever body the power of recall is vested, the senator will perpetually feel himself in such a state of vassalage and dependence, that he never can possess that firmness which is necessary to the discharge of his great duty to the union.

Gentlemen, in their reasoning, have placed the interests of the several states, and those of the United States in contrast; this is not a fair view of the subject; they must necessarily be involved in each other. What we apprehend is, that some sinister prejudice, or some prevailing passion, may assume the form of a genuine interest. The influence of these is as powerful as the most permanent conviction of the public good; and against this influence we ought to provide. The local interests of a state ought in every case to give way to the interests of the union: for when a sacrifice of one or the other is necessary, the former becomes only an apparent, partial interest, and should yield, on the principle that the small good ought never to oppose the great one. When you assemble from your several counties in the legislature, were every

member to be guided only by the apparent interest of his county, government would be impracticable. There must be a perpetual accommodation and sacrifice of local advantage to general expediency; but the spirit of a mere popular assembly would rarely be actuated by this important principle. It is therefore absolutely necessary that the senate should be so formed, as to be unbiassed by false conceptions of the real interests, or undue attachment to the apparent good of their several states.

Gentlemen indulge too many unreasonable apprehensions of danger to the state governments; they seem to suppose, that the moment you put men into a national council, they become corrupt and tyrannical, and lose all their affection for their fellow-citizens. But can we imagine that the senators will ever be so insensible of their own advantage, as to sacrifice the genuine interest of their constituents? The state governments are essentially necessary to the form and spirit of the general system. As long, therefore, as Congress have a full conviction of this necessity, they must, even upon principles purely national, have as firm an attachment to the one as to the other. This conviction can never leave them, unless they become madmen. While the constitution continues to be read, and its principles known, the states must, by every rational man, be considered as essential, component parts of the union; and therefore the idea of sacrificing the former to the latter is wholly inadmissible.

The objectors do not advert to the natural strength and resources of state governments, which will ever give them an important superiority over the general government. If we compare the nature of their different powers, or the means of popular influence which each possesses, we shall find the advantage entirely on the side of the states. This consideration, important as it is, seems to have been little attended to. The aggregate number of representatives throughout the states may be two thousand. Their personal in-



fluence will, therefore, be proportionably more extensive than that of one or two hundred men in Congress. The state establishments of civil and military officers of every description, infinitely surpassing in number any possible correspondent establishments in the general government, will create such an extent and complication of attachments, as will ever secure the predilection and support of the people. Whenever, therefore, Congress shall meditate any infringement of the state constitutions, the great body of the people will naturally take part with their domestic representatives. Can the general government withstand such an united opposition? Will the people suffer themselves to be stripped of their privileges? Will they suffer their legislatures to be reduced to a shadow and a name? The idea is shocking to common sense.

From the circumstances already explained, and many others which might be mentioned, results a complicated, irresistible check, which must ever support the existence and importance of the state governments. The danger, if any exists, flows from an opposite source. The probable evil is, that the general government will be too dependent on the state legislatures, too much governed by their prejudices, and too obsequious to their humors; that the states, with every power in their hands, will make encroachments on the national authority, till the union is weakened and dissolved.

Every member must have been struck with an observation of a gentleman from Albany. Do what you will, says he, local prejudices and opinions will go into the government. What! shall we then form a constitution to cherish and strengthen these prejudices? Shall we confirm the distemper, instead of remedying it? It is undeniable that there must be a control somewhere. Either the general interest is to control the particular interests, or the contrary. If the former, then certainly the government ought to be so framed, as to render the power of control effi-

cient to all intents and purposes; if the latter, a striking absurdity follows: the controlling powers must be as numerous as the varying interests, and the operations of government must therefore cease: for the moment you accommodate these different interests, which is the only way to set the government in motion, you establish a general controlling power. Thus, whatever constitutional provisions are made to the contrary, every government will be at last driven to the necessity of subjecting the partial to the universal interest. The gentlemen ought always, in their reasoning, to distinguish between the real, genuine good of a state, and the opinions and prejudices which may prevail respecting it: the latter may be opposed to the general good, and consequently ought to be sacrificed; the former is so involved in it, that it never can be sacrificed. Sir, the main design of the convention, in forming the senate, was to prevent fluctuations and cabals. With this view, they made that body small, and to exist for a considerable period. Have they executed this design too far? The senators are to serve six years. This is only two years longer than the senators of this state hold their places. One third of the members are to go out every two years; and in six, the whole body may be changed. Prior to the revolution, the representatives in the several colonies were elected for different periods; for three years, for seven years, &c. Were those bodies ever considered as incapable of representing the people, or as too independent of them? There is one circumstance which will have a tendency to increase the dependence of the senators on the states, in proportion to the duration of their appointments. As the state legislatures are in continual fluctuation, the senator will have more attachments to form, and consequently a greater difficulty of maintaining his place, than one of shorter duration. He will therefore be more cautious and industrious to suit his conduct to the wishes of his constituents.



Sir, when you take a view of all the circumstances which have been recited, you will certainly see, that the senators will constantly look up to the state governments, with an eye of dependence and affection. If they are ambitious to continue in office, they will make every prudent arrangement for this purpose, and, whatever may be their private sentiments of politics, they will be convinced, that the surest means of obtaining a re-election, will be an uniform attachment to the interests of their several states.

The gentlemen, to support their amendment, have observed, that the power of recall, under the old government, has never been exercised. There is no reasoning from this. The experience of a few years, under peculiar circumstances, can afford no probable security that it never will be carried into execution with unhappy effects. A seat in Congress has been less an object of ambition; and the arts of intrigue, consequently, have been less practised. Indeed, it has been difficult to find men, who were willing to suffer the mortifications, to which so feeble a government, and so dependent a station, exposed them.

Sir, if you consider but a moment, the purposes for which the senate was instituted, and the nature of the business which they are to transact, you will see the necessity of giving them duration. They, together with the president, are to manage all our concerns with foreign nations; they must understand all their interests, and their political systems. This knowledge is not soon acquired—but a very small part is gained in the closet. Is it desirable then that new and unqualified members should be continually thrown into that body? When public bodies are engaged in the exercise of general powers, you cannot judge of the propriety of their conduct, but from the result of their systems. They may be forming plans, which require time and diligence to bring to maturity. It is necessary, therefore, that they should have a considerable and fixed duration, that they may make their calcula-

tions accordingly. If they are to be perpetually fluctuating, they can never have that responsibility which is so important in republican governments. In bodies subject to frequent changes, great political plans must be conducted by members in succession: a single assembly can have but a partial agency in them, and consequently cannot properly be answerable for the final event. Considering the senate, therefore, with a view to responsibility, duration is a very interesting and essential quality. There is another view, in which duration in the senate appears necessary. A government, changeable in its policy, must soon lose its sense of national character, and forfeit the respect of foreigners. Senators will not be solicitous for the reputation of public measures, in which they have had but a temporary concern, and will feel lightly the burden of public disapprobation, in proportion to the number of those who partake of the censure. Our political rivals will ever consider our mutable counsels as evidence of deficient wisdom, and will be little apprehensive of our arriving at any exalted station in the scale of power. Such are the internal and external disadvantages which would result from the principle contended for. Were it admitted, I am fully persuaded, sir, that prejudices would govern the public deliberations, and passions rage in the counsels of the union. If it were necessary, I could illustrate my subject by historical facts: I could travel through an extensive field of detail, and demonstrate, that wherever the fatal principle of—the head suffering the control of the members, has operated, it has proved a fruitful source of commotions and disorder.

This, sir, is the first fair opportunity that has been offered, of deliberately correcting the errors in government. Instability has been a prominent and very defective feature in most republican systems. It is the first to be seen, and the last to be lamented by a philosophical inquirer. It has operated most banefully in our infant republics. It is necessary that we



apply an immediate remedy, and eradicate the poisonous principle from our government. If this be not done, sir, we shall feel, and posterity will be convulsed by a painful malady.

On the 25th, Mr. Hamilton continued his remarks upon the same subject.

MR. CHAIRMAN,

In debates of this kind, it is extremely easy, on either side, to say a great number of plausible things. It is to be acknowledged, that there is even a certain degree of truth in the reasonings on both sides. In this situation, it is the province of judgment and good sense, to determine their force and application, and how far the arguments advanced on one side, are balanced by those on the other. The ingenious dress in which both may appear, renders it a difficult task to make this decision, and the mind is frequently unable to come to a safe and solid conclusion. On the present question, some of the principles on each side are admitted, and the conclusions drawn from them denied, while other principles, with their inferences, are rejected altogether. It is the business of the committee to seek the truth in this labyrinth of argument.

There are two objects in forming systems of government—safety for the people, and energy in the administration. When these objects are united, the certain tendency of the system will be to the public welfare. If the latter object be neglected, the people's security will be as certainly sacrificed, as by disregarding the former. Good constitutions are formed upon a comparison of the liberty of the individual, with the strength of government: if the tone of either be too high, the other will be weakened too much. It is the happiest possible mode of conciliating these objects, to institute one branch peculiarly endowed with sensibility, another with knowledge and firmness. Through the opposition and mutual control of these bodies, the government will reach, in its operations, the perfect

balance between liberty and power. The arguments of the gentlemen chiefly apply to the former branch—the house of representatives. If they will calmly consider the different nature of the two branches, they will see that the reasoning which justly applies to the representative house, will go to destroy the essential qualities of the senate. If the former is calculated perfectly upon the principles of caution, why should you impose the same principles upon the latter, which is designed for a different operation? Gentlemen, while they discover a laudable anxiety for the safety of the people, do not attend to the important distinction I have drawn. We have it constantly held up to us, that, as it is our chief duty to guard against tyranny, it is our policy to form all the branches of government for this purpose. Sir, it is a truth sufficiently illustrated by experience, that when the people act by their representatives, they are commonly irresistible. The gentleman admits the position, that stability is essential to the government, and yet enforces principles, which, if true, ought to banish stability from the system. The gentleman observes, that there is a fallacy in my reasoning, and informs us, that the legislatures of the states—not the people, are to appoint the senators. Does he reflect, that they are the immediate agents of the people; that they are so constituted as to feel all their prejudices and passions, and to be governed, in a great degree, by their misapprehensions? Experience must have taught him the truth of this. Look through their history: what factions have arisen from the most trifling causes—what intrigues have been practised for the most illiberal purposes! Is not the state of Rhode Island, at this moment, struggling under difficulties and distresses, for having been led blindly by the spirit of the multitude? What is her legislature but the picture of a mob? In this state we have a senate, possessed of the proper qualities of a permanent body: Virginia, Maryland, and a few other states, are in the same situation: the



rest are either governed by a single democratic assembly, or have a senate constituted entirely upon democratic principles. These have been, more or less, embroiled in factions, and have generally been the image and echo of the multitude. It is difficult to reason on this point, without touching on certain delicate chords. I could refer you to periods and conjunctures, when the people have been governed by improper passions, and led by factious and designing men. I could show, that the same passions have infected their representatives. Let us beware that we do not make the state legislatures a vehicle, in which the evil humors may be conveyed into the national system. To prevent this, it is necessary that the senate should be so formed, as, in some measure, to check the state governments, and preclude the communication of the false impressions which they receive from the people. It has been often repeated, that the legislatures of the states can have only a partial and confined view of national affairs; that they can form no proper estimate of great objects which are not in the sphere of their interests. The observation of the gentleman, therefore, cannot take off the force of my argument.

Sir, the senators will constantly be attended with a reflection, that their future existence is absolutely in the power of the states. Will not this form a powerful check? It is a reflection which applies closely to their feelings and interests; and no candid man, who thinks deliberately, will deny that it would be alone a sufficient check. The legislatures are to provide the mode of electing the President, and must have a great influence over the electors. Indeed, they convey their influence through a thousand channels, into the general government. Gentlemen have endeavored to show that there will be no clashing of local and general interests: they do not seem to have sufficiently considered the subject. We have in this state a duty of six pence per pound on salt, and it operates lightly

and with advantage: but such a duty would be very burdensome to some of the states. If Congress should, at any time, find it convenient to impose a salt tax, would it not be opposed by the eastern states? Being themselves incapable of feeling the necessity of the measure, they could only feel its apparent injustice. Would it be wise to give the New England states a power to defeat this measure, by recalling their senators who may be engaged for it? I beg the gentlemen once more to attend to the distinction between the real and apparent interests of the states. I admit that the aggregate of individuals constitutes the government; yet every state is not the government: every petty district is not the government. Sir, in our state legislatures, a compromise is frequently necessary between the interests of counties: the same must happen in the general government between states. In this, the few must yield to the many: or, in other words, the particular must be sacrificed to the general interest. If the members of Congress are too dependent on the state legislatures, they will be eternally forming secret combinations from local views. This is reasoning from the plainest principles. Their interest is interwoven with their dependence, and they will necessarily yield to the impression of their situation. Those who have been in Congress, have seen these operations. The first question has been—how will such a measure affect my constituents, and consequently, how will the part I take affect my re-election? This consideration may be, in some degree, proper; but to be dependent from day to day, and to have the idea perpetually present, would be the source of innumerable evils. Six years, sir, is a period short enough for a proper degree of dependence. Let us consider the peculiar state of this body, and see under what impressions they will act. One third of them are to go out at the end of two years; two thirds in four years, and the whole in six years. When one year is elapsed, there will be a number who are to hold their



places for one year, others for three, and others for five years. Thus, there will not only be a constant and frequent change of members, but there will be some whose office is near the point of expiration, and who, from this circumstance, will have a lively sense of their dependence. The biennial change of members is an excellent invention for increasing the difficulty of combination. Any scheme of usurpation will lose, every two years, a number of its oldest advocates, and their places will be supplied by an equal number of new, unaccommodating and virtuous men. When two principles are equally important, we ought if possible, to reconcile them, and sacrifice neither. We think that safety and permanency in this government are completely reconcileable. The state governments will have, from the causes I have described, a sufficient influence over the senate, without the check for which the gentlemen contend.

It has been remarked, that there is an inconsistency in our admitting, that the equal votes in the senate were given to secure the rights of the states; and, at the same time, holding up the idea, that their interests should be sacrificed to those of the union. But the committee certainly perceive the distinction between the rights of the state and its interests. The rights of a state are defined by the constitution, and cannot be invaded without a violation of it; but the interests of a state have no connexion with the constitution, and may be in a thousand instances constitutionally sacrificed. An uniform tax is perfectly constitutional; and yet it may operate oppressively upon certain members of the union. The gentlemen are afraid that the state governments will be abolished. But, sir, their existence does not depend upon the laws of the United States. Congress can no more abolish the state governments, than they can dissolve the union. The whole constitution is repugnant to it, and yet the gentlemen would introduce an additional, useless provision against it. It is proper that the influence of the

states should prevail to a certain extent. But shall the individual states be the judges how far? Shall an unlimited power be left them to determine in their own favor? The gentlemen go into the extreme: instead of a wise government, they would form a fantastical Utopia. But, sir, while they give it a plausible, popular shape, they would render it impracticable. Much has been said about factions. As far as my observation has extended, factions in Congress have arisen from attachment to state prejudices. We are attempting by this constitution to abolish factions, and to unite all parties for the general welfare. That a man should have the power in private life, of recalling his agent, is proper; because in the business in which he is engaged, he has no other object but to gain the approbation of his principal. Is this the case with the senator? Is he simply the agent of the state? No—he is an agent for the union, and he is bound to perform services necessary to the good of the whole, though his state should condemn them.

Sir, in contending for a rotation, the gentlemen carry their zeal beyond all reasonable bounds. I am convinced that no government, founded on this feeble principle, can operate well. I believe also, that we shall be singular in this proposal. We have not felt the embarrassments resulting from rotation, that other states have; and we hardly know the strength of their objections to it. There is no probability that we shall ever persuade a majority of the states to agree to this amendment. The gentlemen deceive themselves. The amendment would defeat their own design. When a man knows he must quit his station, let his merit be what it may, he will turn his attention chiefly to his own emolument: nay, he will feel temptations, which few other situations furnish, to perpetuate his power by unconstitutional usurpations. Men will pursue their interests. It is as easy to change human nature, as to oppose the strong current of the sel-



fish passions. A wise legislator will gently divert the channel, and direct it, if possible, to the public good.

It has been observed, that it is not possible there should be, in a state, only two men qualified for senators. But, sir, the question is not, whether there may be no more than two men; but whether, in certain emergencies, you could find two equal to those whom the amendment would discard. Important negotiations, or other business to which they shall be most competent, may employ them, at the moment of their removal. These things often happen. The difficulty of obtaining men, capable of conducting the affairs of a nation in dangerous times, is much more serious than the gentlemen imagine.

As to corruption, sir, admitting in the president a disposition to corrupt, what are the instruments of bribery? It is said, he will have in his disposal a great number of offices. But how many offices are there, for which a man would relinquish the senatorial dignity? There may be some in the judicial, and some in other principal departments. But there are few, whose respectability can in any measure balance that of the office of senator. Men who have been in the senate once, and who have a reasonable hope of a re-election, will not be easily bought by offices. This reasoning shows that a rotation would be productive of many disadvantages—under particular circumstances, it might be extremely inconvenient, if not fatal to the prosperity of our country.

# SPEECH OF ALEXANDER HAMILTON,

ON THE EXPEDIENCY OF ADOPTING THE

FEDERAL CONSTITUTION,

DELIVERED IN THE CONVENTION OF NEW YORK, JUNE 27, 1788.



A proposition to amend the constitution was brought before the convention, the object of which was, to materially abridge the power proposed to be conferred upon Congress, relative to imposing excise and laying direct taxes, in opposition to which, Mr. Hamilton delivered the following speech.

THIS is one of those subjects, Mr. Chairman, on which objections very naturally arise, and assume the most plausible shape. Its address is to the passions, and its first impressions create a prejudice, before cool examination has an opportunity for exertion. It is more easy for the human mind to calculate the evils, than the advantages of a measure; and vastly more natural to apprehend the danger, than to see the necessity, of giving powers to our rulers. Hence, I may justly expect, that those who hear me, will place less confidence in those arguments which oppose, than in those which favor, their prepossessions.

After all our doubts, our suspicions and speculations, on the subject of government, we must return, at last, to this important truth—that when we have formed a constitution upon free principles; when we have given a proper balance to the different branches of administration, and fixed representation upon pure and equal principles, we may, with safety, furnish it with



all the powers necessary to answer, in the most ample manner, the purposes of government. The great *desiderata* are a free representation, and mutual checks. When these are obtained, all our apprehensions of the extent of powers are unjust and imaginary. What then is the structure of this constitution? One branch of the legislature is to be elected by the people—by the same people, who choose your state representatives. Its members are to hold their office two years, and then return to their constituents. Here, sir, the people govern: here they act by their immediate representatives. You have also a senate, constituted by your state legislatures—by men, in whom you place the highest confidence, and forming another representative branch. Then, again, you have an executive magistrate, created by a form of election, which merits universal admiration. In the form of this government, and in the mode of legislation, you find all the checks which the greatest politicians and the best writers, have ever conceived. What more can reasonable men desire? Is there any one branch, in which the whole legislative and executive powers are lodged? No. The legislative authority is lodged in three distinct branches, properly balanced: the executive authority is divided between two branches; and the judicial is still reserved for an independent body, who hold their offices during good behavior. This organization is so complex, so skilfully contrived, that it is next to impossible that an impolitic or wicked measure should pass the great scrutiny with success. Now, what do gentlemen mean, by coming forward and declaiming against this government? Why do they say we ought to limit its powers, to disable it, and to destroy its capacity of blessing the people? Has philosophy suggested—has experience taught, that such a government ought not to be trusted with every thing necessary for the good of society? Sir, when you have divided and nicely balanced the departments of government; when you have strongly

connected the virtue of your rulers with their interest; when, in short, you have rendered your system as perfect as human forms can be—you must place confidence; you must give power.

We have heard a great deal of the sword and the purse: it is said, our liberties are in danger, if both are possessed by Congress. Let us see what is the true meaning of this maxim, which has been so much used, and so little understood. It is, that you shall not place these powers in either the legislative or executive singly: neither one nor the other shall have both; because this would destroy that division of powers, on which political liberty is founded; and would furnish one body with all the means of tyranny. But, where the purse is lodged in one branch, and the sword in another, there can be no danger. All governments have possessed these powers: they would be monsters without them, and incapable of exertion. What is your state government? Does not your legislature command what money it pleases? Does not your executive execute the laws without restraint? These distinctions between the purse and the sword have no application to the system, but only to its separate branches. Sir, when we reason about the great interests of a great people, it is high time that we dismiss our prejudices and banish declamation.

In order to induce us to consider the powers, given by this constitution, as dangerous—in order to render plausible an attempt to take away the life and spirit of the most important power in government, the gentleman complains that we shall not have a true and safe representation. I asked him what a safe representation was, and he has given no satisfactory answer. The assembly of New York has been mentioned as a proper standard; but, if we apply this standard to the general government, our Congress will become a mere mob, exposed to every irregular impulse, and subject to every breeze of faction. Can such a system afford security? Can you have confidence in



such a body? The idea of taking the ratio of representation, in a small society, for the ratio of a great one, is a fallacy which ought to be exposed. It is impossible to ascertain to what point our representation will increase: it may vary from one, to two, three, or four hundred; it depends upon the progress of population. Suppose it to rest at two hundred; is not this number sufficient to secure it against corruption? Human nature must be a much more weak and despicable thing, than I apprehend it to be, if two hundred of our fellow-citizens can be corrupted in two years. But, suppose they are corrupted; can they, in two years, accomplish their designs? Can they form a combination, and even lay a foundation for a system of tyranny, in so short a period? It is far from my intention to wound the feelings of any gentleman; but I must, in this most interesting discussion, speak of things as they are; and hold up opinions in the light in which they ought to appear: and I maintain, that all that has been said of corruption, of the purse and the sword, and of the danger of giving powers, is not supported by principle or fact: that it is mere verbiage, and idle declamation. The true principle of government is this: make the system complete in its structure; give a perfect proportion and balance to its parts; and the powers you give it will never affect your security. The question, then, of the division of powers between the general and state governments, is a question of convenience: it becomes a prudential inquiry, what powers are proper to be reserved to the latter; and this immediately involves another inquiry into the proper objects of the two governments. This is the criterion by which we shall determine the just distribution of powers.

The great leading objects of the federal government, in which revenue is concerned, are to maintain domestic peace, and provide for the common defence. In these are comprehended the regulation of commerce, that is, the whole system of foreign intercourse; the

support of armies and navies, and of the civil administration. It is useless to go into detail. Every one knows that the objects of the general government are numerous, extensive and important. Every one must acknowledge the necessity of giving powers, in all respects, and in every degree, equal to these objects. This principle assented to, let us inquire what are the objects of the state governments. Have they to provide against foreign invasion? Have they to maintain fleets and armies? Have they any concern in the regulation of commerce, the procuring alliances, or forming treaties of peace? No. Their objects are merely civil and domestic; to support the legislative establishment, and to provide for the administration of the laws. Let any one compare the expense of supporting the civil list in a state, with the expense of providing for the defence of the union. The difference is almost beyond calculation. The experience of Great Britain will throw some light on this subject. In that kingdom, the ordinary expenses of peace to those of war, are as one to fourteen: but there they have a monarch, with his splendid court, and an enormous civil establishment, with which we have nothing in this country to compare. If, in Great Britain, the expenses of war and peace are so disproportioned, how wide will be their disparity in the United States; how infinitely wider between the general government and each individual state! Now, sir, where ought the great resources to be lodged? Every rational man will give an immediate answer. To what extent shall these resources be possessed? Reason says, as far as possible exigencies can require; that is, without limitation. A constitution cannot set bounds to a nation's wants; it ought not, therefore, to set bounds to its resources. Unexpected invasions, long and ruinous wars, may demand all the possible abilities of the country. Shall not your government have power to call these abilities into action? The contingencies of society are not reduceable to calculations. They



cannot be fixed or bounded, even in imagination. Will you limit the means of your defence, when you cannot ascertain the force or extent of the invasion? Even in ordinary wars, a government is frequently obliged to call for supplies, to the temporary oppression of the people.

Sir, if we adopt the idea of exclusive revenues, we shall be obliged to fix some distinguished line, which neither government shall overpass. The inconveniences of this measure must appear evident, on the slightest examination. The resources appropriated to one, may diminish or fail, while those of the other may increase, beyond the wants of government. One may be destitute of revenues, while the other shall possess an unnecessary abundance, and the constitution will be an eternal barrier to a mutual intercourse and relief. In this case, will the individual states stand on so good a ground, as if the objects of taxation were left free and open to the embrace of both the governments? Possibly, in the advancement of commerce, the imposts may increase to such a degree, as to render direct taxes unnecessary. These resources, then, as the constitution stands, may be occasionally relinquished to the states; but on the gentleman's idea of prescribing exclusive limits, and precluding all reciprocal communication, this would be entirely improper. The laws of the states must not touch the appropriated resources of the United States, whatever may be their wants. Would it not be of more advantage to the states, to have a concurrent jurisdiction extending to all the sources of revenue, than to be confined to such a small resource, as, on calculation of the objects of the two governments, should appear to be their due proportion? Certainly you cannot hesitate on this question. The gentleman's plan would have a further ill effect; it would tend to dissolve the connexion and correspondence of the two governments, to estrange them from each other, and to destroy that mutual dependence, which forms the essence of union.

Sir, a number of arguments have been advanced by an honorable member from New York, which, to every unclouded mind, must carry conviction. He has stated, that in sudden emergencies, it may be necessary to borrow; and that it is impossible to borrow, unless you have funds to pledge for the payment of your debts. Limiting the powers of government to certain resources, is rendering the fund precarious; and obliging the government to ask, instead of empowering it to command, is to destroy all confidence and credit. If the power of taxing is restricted, the consequence is, that on the breaking out of a war, you must divert the funds, appropriated to the payment of debts, to answer immediate exigencies. Thus you violate your engagements, at the very time you increase the burden of them. Besides, sound policy condemns the practice of accumulating debts. A government, to act with energy, should have the possession of all its revenues to answer present purposes. The principle, for which I contend, is recognized, in all its extent, by our old constitution. Congress is authorized to raise troops, to call for supplies without limitation, and to borrow money to any amount. It is true, they must use the form of recommendations and requisitions: but the states are bound by the solemn ties of honor, of justice, of religion, to comply without reserve.

Mr. Chairman, it has been advanced as a principle, that no government but a despotism, can exist in a very extensive country. This is a melancholy consideration indeed. If it were founded on truth, we ought to dismiss the idea of a republican government, even for the state of New York. This idea has been taken from a celebrated writer, who, by being misunderstood, has been the occasion of frequent fallacies in our reasoning on political subjects. But the position has been misapprehended; and its application is entirely false and unwarrantable: it relates only to democracies, where the whole body of the people meet to transact business: and where representation



is unknown. Such were a number of ancient, and some modern independent cities. Men who read without attention, have taken these maxims respecting the extent of country; and, contrary to their proper meaning, have applied them to republics in general. This application is wrong in respect to all representative governments; but especially in relation to a confederacy of states, in which the supreme legislature has only general powers, and the civil and domestic concerns of the people are regulated by the laws of the several states. This distinction being kept in view, all the difficulty will vanish, and we may easily conceive, that the people of a large country may be represented, as truly as those of a small one. An assembly constituted for general purposes, may be fully competent to every federal regulation, without being too numerous for deliberate conduct. If the state governments were to be abolished, the question would wear a different face: but this idea is inadmissible. They are absolutely necessary to the system. Their existence must form a leading principle in the most perfect constitution we could form. I insist, that it never can be the interest or desire of the national legislature, to destroy the state governments. It can derive no advantage from such an event; but, on the contrary, would lose an indispensable support, a necessary aid in executing the laws, and conveying the influence of government to the doors of the people. The union is dependent on the will of the state governments for its chief magistrate, and for its senate. The blow aimed at the members, must give a fatal wound to the head; and the destruction of the states must be at once a political suicide. Can the national government be guilty of this madness? What inducements, what temptations can they have? Will they attach new honors to their station; will they increase the national strength; will they multiply the national resources; will they make themselves more respectable in the view of foreign nations, or of their fellow-

citizens, by robbing the states of their constitutional privileges? But imagine, for a moment, that a political frenzy should seize the government; suppose they should make the attempt—certainly, sir, it would be for ever impracticable. This has been sufficiently demonstrated by reason and experience. It has been proved, that the members of republics have been, and ever will be, stronger than the head. Let us attend to one general historical example. In the ancient feudal governments of Europe, there were, in the first place, a monarch; subordinate to him, a body of nobles; and subject to these, the vassals, or the whole body of the people. The authority of the kings was limited, and that of the barons considerably independent. A great part of the early wars in Europe were contests between the king and his nobility. In these contests, the latter possessed many advantages derived from their influence, and the immediate command they had over the people; and they generally prevailed. The history of the feudal wars exhibits little more than a series of successful encroachments on the prerogatives of monarchy. Here, sir, is one great proof of the superiority, which the members in limited governments possess over their head. As long as the barons enjoyed the confidence and attachment of the people, they had the strength of the country on their side, and were irresistible. I may be told, that in some instances the barons were overcome: but how did this happen? Sir, they took advantage of the depression of the royal authority, and the establishment of their own power, to oppress and tyrannize over their vassals. As commerce enlarged, and as wealth and civilization increased, the people began to feel their own weight and consequence: they grew tired of their oppressions; united their strength with that of the prince, and threw off the yoke of aristocracy. These very instances prove what I contend for. They prove, that in whatever direction the popular weight leans, the current of power will flow: wherever the popular attach-



ments lie, there will rest the political superiority. Sir, can it be supposed that the state governments will become the oppressors of the people? Will they forfeit their affections? Will they combine to destroy the liberties and happiness of their fellow-citizens, for the sole purpose of involving themselves in ruin? God forbid! The idea, sir, is shocking! It outrages every feeling of humanity, and every dictate of common sense!

There are certain social principles in human nature, from which we may draw the most solid conclusions, with respect to the conduct of individuals and of communities. We love our families more than our neighbors: we love our neighbors more than our countrymen in general. The human affections, like the solar heat, lose their intensity, as they depart from the centre, and become languid, in proportion to the expansion of the circle, on which they act. On these principles, the attachment of the individual will be first and for ever secured by the state governments: they will be a mutual protection and support. Another source of influence, which has already been pointed out, is the various official connexions in the states. Gentlemen endeavor to evade the force of this, by saying that these offices will be insignificant. This is by no means true. The state officers will ever be important, because they are necessary and useful. Their powers are such as are extremely interesting to the people; such as affect their property, their liberty and life. What is more important than the administration of justice, and the execution of the civil and criminal laws? Can the state governments become insignificant, while they have the power of raising money independently, and without control? If they are really useful; if they are calculated to promote the essential interests of the people; they must have their confidence and support. The states can never lose their powers, till the whole people of America are robbed of their liberties. These must go together; they must

support each other, or meet one common fate. On the gentlemen's principle, we may safely trust the state governments, though we have no means of resisting them: but we cannot confide in the national government, though we have an effectual constitutional guard against every encroachment. This is the essence of their argument, and it is false and fallacious beyond conception.

With regard to the jurisdiction of the two governments, I shall certainly admit that the constitution ought to be so formed, as not to prevent the states from providing for their own existence; and I maintain that it is so formed; and that their power of providing for themselves is sufficiently established. This is conceded by one gentleman, and in the next breath, the concession is retracted. He says, Congress have but one exclusive right in taxation; that of duties on imports: certainly, then, their other powers are only concurrent. But to take off the force of this obvious conclusion, he immediately says, that the laws of the United States are supreme; and that where there is one supreme, there cannot be a concurrent authority; and further, that where the laws of the union are supreme, those of the states must be subordinate; because, there cannot be two supremes. This is curious sophistry. That two supreme powers cannot act together, is false. They are inconsistent only when they are aimed at each other, or at one indivisible object. The laws of the United States are supreme, as to all their proper, constitutional objects: the laws of the states are supreme in the same way. These supreme laws may act on different objects, without clashing; or they may operate on different parts of the same common object, with perfect harmony. Suppose both governments should lay a tax, of a penny, on a certain article: has not each an independent and uncontrollable power to collect its own tax? The meaning of the maxim, there cannot be two supremes, is simply this—two powers cannot be supreme over



each other. This meaning is entirely perverted by the gentlemen. But, it is said, disputes between collectors are to be referred to the federal courts. This is again wandering in the field of conjecture. But suppose the fact certain: is it not to be presumed, that they will express the true meaning of the constitution and the laws? Will they not be bound to consider the concurrent jurisdiction; to declare that both the taxes shall have equal operation; that both the powers, in that respect, are sovereign and co-extensive? If they transgress their duty, we are to hope that they will be punished. Sir, we can reason from probabilities alone. When we leave common sense, and give ourselves up to conjecture, there can be no certainty, no security in our reasonings.

I imagine I have stated to the committee, abundant reasons to prove the entire safety of the state governments, and of the people. I would go into a more minute consideration of the nature of the concurrent jurisdiction, and the operation of the laws, in relation to revenue; but at present, I feel too much indisposed to proceed. I shall, with the leave of the committee, improve another opportunity of expressing to them more fully my ideas on this point. I wish the committee to remember, that the constitution under examination, is framed upon truly republican principles; and that, as it is expressly designed to provide for the common protection and the general welfare of the United States, it must be utterly repugnant to this constitution, to subvert the state governments, or oppress the people.

*C. V. I. p. 1*

## SPEECH OF PATRICK HENRY.

ON THE EXPEDIENCY OF ADOPTING THE

FEDERAL CONSTITUTION,

DELIVERED IN THE CONVENTION OF VIRGINIA, JUNE 4th, 1788.



The preamble and the two first sections of the first article of the constitution being under consideration, Mr. Henry thus addressed the convention.

MR. CHAIRMAN,

THE public mind, as well as my own, is extremely uneasy at the proposed change of government. Give me leave to form one of the number of those, who wish to be thoroughly acquainted with the reasons of this perilous and uneasy situation, and why we are brought hither to decide on this great national question. I consider myself as the servant of the people of this commonwealth, as a centinel over their rights, liberty and happiness. I represent their feelings when I say, that they are exceedingly uneasy, being brought from that state of full security, which they enjoy, to the present delusive appearance of things. Before the meeting of the late federal convention at Philadelphia, a general peace, and an universal tranquillity prevailed in this country, and the minds of our citizens were at perfect repose; but since that period, they are exceedingly uneasy and disquieted. When I wished for an appointment to this convention; my mind was extremely agitated for the situation of public affairs. I conceive



the republic to be in extreme danger. If our situation be thus uneasy, whence has arisen this fearful jeopardy? It arises from this fatal system; it arises from a proposal to change our government—a proposal that goes to the utter annihilation of the most solemn engagements of the states—a proposal of establishing nine states into a confederacy, to the eventual exclusion of four states. It goes to the annihilation of those solemn treaties we have formed with foreign nations. The present circumstances of France, the good offices rendered us by that kingdom, require our most faithful and most punctual adherence to our treaty with her. We are in alliance with the Spaniards, the Dutch, the Prussians: those treaties bound us as thirteen states, confederated together. Yet here is a proposal to sever that confederacy. Is it possible that we shall abandon all our treaties and national engagements? And for what? I expected to have heard the reasons of an event so unexpected to my mind, and many others. Was our civil polity, or public justice, endangered or sapped? Was the real existence of the country threatened, or was this preceded by a mournful progression of events? This proposal of altering our federal government is of a most alarming nature: make the best of this new government—say it is composed by any thing but inspiration—you ought to be extremely cautious, watchful, jealous of your liberty; for instead of securing your rights, you may lose them forever. If a wrong step be now made, the republic may be lost forever. If this new government will not come up to the expectation of the people, and they should be disappointed, their liberty will be lost, and tyranny must and will arise. I repeat it again, and I beg gentlemen to consider, that a wrong step, made now, will plunge us into misery, and our republic will be lost. It will be necessary for this convention to have a faithful historical detail of the facts, that preceded the session of the federal convention, and the reasons that actuated its members in proposing an entire alteration of govern-

ment—and to demonstrate the dangers that awaited us. If they were of such awful magnitude, as to warrant a proposal so extremely perilous as this, I must assert, that this convention has an absolute right to a thorough discovery of every circumstance relative to this great event. And here I would make this inquiry of those worthy characters who composed a part of the late federal convention. I am sure they were fully impressed with the necessity of forming a great consolidated government, instead of a confederation. That this is a consolidated government is demonstrably clear; and the danger of such a government is, to my mind, very striking. I have the highest veneration for those gentlemen; but, sir, give me leave to demand, what right had they to say, “We, the People?” My political curiosity, exclusive of my anxious solicitude for the public welfare, leads me to ask, who authorized them to speak the language of, “We, the People,” instead of We, the States? States are the characteristics, and the soul of a confederation. If the states be not the agents of this compact, it must be one great consolidated national government of the people of all the states. I have the highest respect for those gentlemen who formed the convention; and were some of them not here, I would express some testimonial of esteem for them. America had on a former occasion put the utmost confidence in them; a confidence which was well placed; and I am sure, sir, I would give up any thing to them; I would cheerfully confide in them as my representatives. But, sir, on this great occasion, I would demand the cause of their conduct. Even from that illustrious man, who saved us by his valor, I would have a reason for his conduct; that liberty which he has given us by his valor, tells me to ask this reason, and sure I am, were he here, he would give us that reason: but there are other gentlemen here, who can give us this information. The people gave them no power to use their name. That they exceeded their power is perfectly clear. It is not mere curiosity that



actuates me; I wish to hear the real, actual, existing danger, which should lead us to take those steps so dangerous in my conception. Disorders have arisen in other parts of America, but here, sir, no dangers, no insurrection or tumult, has happened; every thing has been calm and tranquil. But notwithstanding this, we are wandering on the great ocean of human affairs. I see no land mark to guide us. We are running we know not whither. Difference in opinion has gone to a degree of inflammatory resentment, in different parts of the country, which has been occasioned by this perilous innovation. The federal convention ought to have amended the old system; for this purpose, they were solely delegated: the object of their mission extended to no other consideration. You must therefore forgive the solicitation of one unworthy member, to know what danger could have arisen under the present confederation, and what are the causes of this proposal to change our government.

Some of the advocates of the proposed constitution, having replied to the preceding remarks of Mr. Henry, on the 5th, he continued his speech as follows.

MR. CHAIRMAN:

I am much obliged to the very worthy gentleman\* for his encomium. I wish I were possessed of talents, or possessed of any thing, that might enable me to elucidate this great subject. I am not free from suspicion: I am apt to entertain doubts: I rose yesterday to ask a question, which arose in my own mind. When I asked that question, I thought the meaning of my interrogation was obvious: the fate of this question and of America, may depend on this. Have they said, we, the states? Have they made a proposal of a compact between states? If they had, this would be a confederation: it is otherwise most clearly a consolidated government. The question turns, sir, on that poor little thing—the expression, We, the people, in-

\* Mr. Lee, of Westmoreland.

stead of the states of America. I need not take much pains to show, that the principles of this system, are extremely pernicious, impolitic, and dangerous. Is this a monarchy, like England—a compact between prince and people; with checks on the former to secure the liberty of the latter? Is this a confederacy, like Holland—an association of a number of independent states, each of which retains its individual sovereignty? It is not a democracy, wherein the people retain all their rights securely. Had these principles been adhered to, we should not have been brought to this alarming transition, from a confederacy to a consolidated government. We have no detail of those great considerations which, in my opinion, ought to have abounded before we should recur to a government of this kind. Here is a revolution as radical as that, which separated us from Great Britain. It is as radical, if in this transition, our rights and privileges are endangered, and the sovereignty of the states relinquished. And cannot we plainly see, that this is actually the case? The rights of conscience, trial by jury, liberty of the press, all your immunities and franchises, all pretensions to human rights and privileges, are rendered insecure, if not lost, by this change so loudly talked of by some, and inconsiderately by others. Is this tame relinquishment of rights worthy of free-men? Is it worthy of that manly fortitude that ought to characterize republicans? It is said eight states have adopted this plan. I declare that if twelve states and an half had adopted it, I would, with manly firmness, and in spite of an erring world, reject it. You are not to inquire how your trade may be increased, nor how you are to become a great and powerful people, but how your liberties can be secured; for liberty ought to be the direct end of your government. Having premised these things, I shall, with the aid of my judgment and information, which I confess are not extensive, go into the discussion of this system more minutely. Is it necessary for your liberty, that you should



abandon those great rights by the adoption of this system? Is the relinquishment of the trial by jury, and the liberty of the press, necessary for your liberty? Will the abandonment of your most sacred rights, tend to the security of your liberty? Liberty, the greatest of all earthly blessings—give us that precious jewel, and you may take every thing else. But I am fearful I have lived long enough to become an old-fashioned fellow. Perhaps an invincible attachment to the dearest rights of man, may, in these refined, enlightened days, be deemed old-fashioned: if so, I am contented to be so. I say, the time has been when every pulse of my heart beat for American liberty, and which, I believe, had a counterpart in the breast of every true American. But suspicions have gone forth—suspicions of my integrity. It has been publicly reported that my professions are not real. Twenty three years ago was I supposed a traitor to my country: I was then said to be a bane of sedition, because I supported the rights of my country: I may be thought suspicious, when I say our privileges and rights are in danger: but, sir, a number of the people of this country are weak enough to think these things are too true. I am happy to find that the gentlemen on the other side, declare they are groundless: but, sir, suspicion is a virtue, as long as its object is the preservation of the public good, and as long as it stays within proper bounds: should it fall on me, I am contented: conscious rectitude is a powerful consolation: I trust there are many who think my professions for the public good to be real. Let your suspicion look to both sides: there are many on the other side, who, possibly may have been persuaded of the necessity of these measures, which I conceive to be dangerous to your liberty. Guard with jealous attention the public liberty. Suspect every one who approaches that jewel. Unfortunately, nothing will preserve it, but downright force. Whenever you give up that force, you are inevitably ruined. I am answered by gentlemen, that

though I may speak of terrors, yet the fact is, that we are surrounded by none of the dangers I apprehend. I conceive this new government to be one of those dangers: it has produced those horrors, which distress many of our best citizens. We are come hither to preserve the poor commonwealth of Virginia, if it can be possibly done: something must be done to preserve your liberty and mine. The confederation, this same despised government, merits, in my opinion, the highest encomium: it carried us through a long and dangerous war: it rendered us victorious in that bloody conflict with a powerful nation: it has secured us a territory greater than any European monarch possesses: and shall a government which has been thus strong and vigorous, be accused of imbecility, and abandoned for want of energy? Consider what you are about to do, before you part with this government. Take longer time in reckoning things: revolutions like this have happened in almost every country in Europe: similar examples are to be found in ancient Greece and ancient Rome: instances of the people losing their liberty by their own carelessness and the ambition of a few. We are cautioned by the honorable gentleman who presides, against faction and turbulence. I acknowledge that licentiousness is dangerous, and that it ought to be provided against: I acknowledge also the new form of government may effectually prevent it: yet, there is another thing it will as effectually do: it will oppress and ruin the people. There are sufficient guards placed against sedition and licentiousness: for when power is given to this government to suppress these, or, for any other purpose, the language it assumes is clear, express, and unequivocal; but when this constitution speaks of privileges, there is an ambiguity, sir, a fatal ambiguity—an ambiguity which is very astonishing. In the clause under consideration, there is the strangest language that I can conceive. I mean, when it says, that there shall not be more representatives, than one for



every 30,000. Now, sir, how easy is it to evade this privilege? "The number shall not exceed one for every 30,000." This may be satisfied by one representative from each state. Let our numbers be ever so great, this immense continent, may, by this artful expression, be reduced to have but thirteen representatives. I confess this construction is not natural; but the ambiguity of the expression lays a good ground for a quarrel. Why was it not clearly and unequivocally expressed, that they should be entitled to have one for every 30,000? This would have obviated all disputes; and was this difficult to be done? What is the inference? When population increases, and a state shall send representatives in this proportion, Congress may remand them, because the right of having one for every 30,000 is not clearly expressed. This possibility of reducing the number to one for each state, approximates to probability by that other expression, "but each state shall at least have one representative." Now is it not clear that, from the first expression, the number might be reduced so much, that some states should have no representative at all, were it not for the insertion of this last expression? And as this is the only restriction upon them, we may fairly conclude that they may restrain the number to one from each state. Perhaps the same horrors may hang over my mind again. I shall be told I am continually afraid: but, sir, I have strong cause of apprehension. In some parts of the plan before you, the great rights of freemen are endangered, in other parts absolutely taken away. How does your trial by jury stand? In civil cases gone—not sufficiently secured in criminal—this best privilege is gone. But we are told, that we need not fear, because those in power being our representatives, will not abuse the powers we put in their hands. I am not well versed in history, but I will submit to your recollection, whether liberty has been destroyed most often by the licentiousness of the people, or by the tyranny of rulers. I imagine, sir, you will

find the balance on the side of tyranny. Happy will you be, if you miss the fate of those nations, who, omitting to resist their oppressors, or negligently suffering their liberty to be wrested from them, have groaned under intolerable despotism! Most of the human race are now in this deplorable condition. And those nations who have gone in search of grandeur, power and splendor, have also fallen a sacrifice, and been the victims of their own folly. While they acquired those visionary blessings, they lost their freedom. My great objection to this government is, that it does not leave us the means of defending our rights; or, of waging war against tyrants. It is urged by some gentlemen, that this new plan will bring us an acquisition of strength; an army, and the militia of the states. This is an idea extremely ridiculous: gentlemen cannot be in earnest. This acquisition will trample on your fallen liberty. Let my beloved Americans guard against that fatal lethargy that has pervaded the universe. Have we the means of resisting disciplined armies, when our only defence, the militia, is put into the hands of Congress?

The honorable gentleman said, that great danger would ensue, if the convention rose without adopting this system. I ask, where is that danger? I see none. Other gentlemen have told us, within these walls, that the union is gone—or, that the union will be gone. Is not this trifling with the judgment of their fellow-citizens? Till they tell us the ground of their fears, I will consider them as imaginary. I rose to make inquiry where those dangers were; they could make no answer: I believe I never shall have that answer. Is there a disposition in the people of this country to revolt against the dominion of laws? Has there been a single tumult in Virginia? Have not the people of Virginia, when laboring under the severest pressure of accumulated distresses, manifested the most cordial acquiescence in the execution of the laws? What could be more awful, than their unani-



mous acquiescence under general distresses? Is there any revolution in Virginia? Whither is the spirit of America gone? Whither is the genius of America fled? It was but yesterday, when our enemies marched in triumph through our country. Yet the people of this country could not be appalled by their pompous armaments: they stopped their career, and victoriously captured them: where is the peril now, compared to that?

Some minds are agitated by foreign alarms. Happily for us, there is no real danger from Europe; that country is engaged in more arduous business; from that quarter, there is no cause of fear: you may sleep in safety forever for them. Where is the danger? If, sir, there was any, I would recur to the American spirit to defend us—that spirit which has enabled us to surmount the greatest difficulties: to that illustrious spirit, I address my most fervent prayer, to prevent our adopting a system destructive to liberty. Let not gentlemen be told, that it is not safe to reject this government. Wherefore is it not safe? We are told there are dangers; but those dangers are ideal; they cannot be demonstrated. To encourage us to adopt it, they tell us, that there is a plain, easy way of getting amendments. When I come to contemplate this part, I suppose that I am mad, or, that my countrymen are so. The way to amendment is, in my conception, shut. Let us consider this plain, easy way. “The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this constitution; or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one, or the other mode of ratification may be proposed by the Congress. Provided, that no amendment which may be made

prior to the year 1808, shall, in any manner, affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate." Hence it appears, that three fourths of the states must ultimately agree to any amendments that may be necessary. Let us consider the consequences of this. However uncharitable it may appear, yet I must express my opinion, that the most unworthy characters may get into power and prevent the introduction of amendments. Let us suppose, (for the case is supposable, possible and probable,) that you happen to deal these powers to unworthy hands; will they relinquish powers already in their possession, or agree to amendments? Two thirds of the Congress, or of the state legislatures, are necessary even to propose amendments. If one third of these be unworthy men, they may prevent the application for amendments; but a destructive and mischievous feature is, that three fourths of the state legislatures, or of the state conventions, must concur in the amendments when proposed. In such numerous bodies, there must necessarily be some designing, bad men. To suppose that so large a number as three fourths of the states will concur, is to suppose that they will possess genius, intelligence and integrity, approaching to miraculous. It would, indeed, be miraculous, that they should concur in the same amendments, or, even in such as would bear some likeness to one another. For four of the smallest states, that do not collectively contain one tenth part of the population of the United States, may obstruct the most salutary and necessary amendments. Nay, in these four states, six tenths of the people may reject these amendments; and suppose, that amendments shall be opposed to amendments, (which is highly probable,) is it possible, that three fourths can ever agree to the same amendments? A bare majority in these four small states, may hinder the adoption of amendments; so that we may fairly and justly



conclude, that one twentieth part of the American people, may prevent the removal of the most grievous inconveniences and oppression, by refusing to accede to amendments. A trifling minority may reject the most salutary amendments. Is this an easy mode of securing the public liberty? It is, sir, a most fearful situation, when the most contemptible minority can prevent the alteration of the most oppressive government; for it may, in many respects, prove to be such. Is this the spirit of republicanism? What, sir, is the genius of democracy? Let me read that clause of the Bill of Rights of Virginia which relates to this: 3d clause; "That, government is, or ought to be, instituted for the common benefit, protection and security of the people, nation, or community. Of all the various modes and forms of government, that is best, which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of mal-administration, and that whenever any government shall be found inadequate, or contrary to these purposes, a majority of the community hath an indubitable, unalienable and indefeasible right to reform, alter, or abolish it, in such manner as shall be judged most conducive to the public weal." This, sir, is the language of democracy—that a majority of the community have a right to alter their government when found to be oppressive: but how different is the genius of your new constitution from this! How different from the sentiments of freemen, that a contemptible minority can prevent the good of the majority! If then, gentlemen, standing on this ground, are come to that point, that they are willing to bind themselves and their posterity to be oppressed, I am amazed and inexpressibly astonished. If this be the opinion of the majority, I must submit; but to me, sir, it appears perilous and destructive; I cannot help thinking so: perhaps it may be the result of my age; these may be feelings natural to a man of my years, when the American spirit has left him, and his mental

powers, like the members of the body, are decayed. If, sir, amendments are left to the twentieth, or to the tenth part of the people of America, your liberty is gone forever. We have heard that there is a great deal of bribery practised in the house of commons in England; and that many of the members raise themselves to preferments, by selling the rights of the people. But, Sir, the tenth part of that body cannot continue oppressions on the rest of the people. English liberty is, in this case, on a firmer foundation than American liberty. It will be easily contrived to procure the opposition of one tenth of the people to any alteration, however judicious.

The honorable gentleman who presides, told us, that to prevent abuses in our government, we will assemble in convention, recall our delegated powers, and punish our servants for abusing the trust reposed in them. Oh, sir, we should have fine times indeed, if to punish tyrants, it were only sufficient to assemble the people. Your arms, wherewith you could defend yourselves, are gone; and you have no longer an aristocratical, no longer a democratical spirit. Did you ever read of any revolution in any nation, brought about by the punishment of those in power, inflicted by those who had no power at all? You read of a riot act in a country which is called one of the freest in the world, where a few neighbours cannot assemble without the risk of being shot by a hired soldiery, the engines of despotism. We may see such an act in America. A standing army we shall have also, to execute the execrable commands of tyranny: and how are you to punish them? Will you order them to be punished? Who shall obey these orders? Will your mace-bearer be a match for a disciplined regiment? In what situation are we to be?

The clause before you gives a power of direct taxation, unbounded and unlimited; exclusive power of legislation in all cases whatsoever, for ten miles square, and over all places purchased for the erection of forts,



magazines, arsenals, dock-yards, &c. What resistance could be made? The attempt would be madness. You will find all the strength of this country in the hands of your enemies: those garrisons will naturally be the strongest places in the country. Your militia is given up to Congress also, in another part of this plan: they will therefore act as they think proper: all power will be in their own possession: you cannot force them to receive their punishment. Of what service would militia be to you, when most probably you will not have a single musket in the state? For, as arms are to be provided by Congress, they may, or may not, furnish them.

Let us here call your attention to that part which gives the Congress power "To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia, according to the discipline prescribed by Congress." By this, sir, you see that their control over our last and best defence, is unlimited. If they neglect or refuse to discipline or arm our militia, they will be useless: the states can do neither, this power being exclusively given to Congress. The power of appointing officers over men not disciplined or armed, is ridiculous: so that this pretended, little remnant of power, left to the states, may, at the pleasure of Congress, be rendered nugatory. Our situation will be deplorable indeed: nor can we ever expect to get this government amended; since I have already shown, that a very small minority may prevent it, and that small minority interested in the continuance of the oppression. Will the oppressor let go the oppressed? Was there ever an instance? Can the annals of mankind exhibit one single example, where rulers, overcharged with power, willingly let go the oppressed, though solicited and requested most earnestly? The application for amendments will therefore be

fruitless. Sometimes the oppressed have got loose by one of those bloody struggles that desolate a country. But a willing relinquishment of power is one of those things, which human nature never was, nor ever will be, capable of.

The honorable gentleman's observations, respecting the people's right of being the agents in the formation of this government, are not accurate, in my humble conception. The distinction between a national government and a confederacy, is not sufficiently discerned. Had the delegates, who were sent to Philadelphia, a power to propose a consolidated government instead of a confederacy? Were they not deputed by states, and not by the people? The assent of the people, in their collective capacity, is not necessary to the formation of a federal government. The people have no right to enter into leagues, alliances, or confederations: they are not the proper agents for this purpose: states and sovereign powers are the only proper agents for this kind of government. Show me an instance where the people have exercised this business: has it not always gone through the legislatures? I refer you to the treaties with France, Holland, and other nations: how were they made? Were they not made by the states? Are the people, therefore, in their aggregate capacity, the proper persons to form a confederacy? This, therefore, ought to depend on the consent of the legislatures; the people having never sent delegates to make any proposition of changing the government. Yet I must say, at the same time, that it was made on grounds the most pure, and perhaps I might have been brought to consent to it, so far as to the change of government; but there is one thing in it, which I never would acquiesce in. I mean, the changing it into a consolidated government, which is so abhorrent to my mind.

The honorable gentleman then went on to the figure we make with foreign nations; the contemptible one we make in France and Holland, which, according to



the substance of my notes, he attributes to the present feeble government. An opinion has gone forth, we find, that we are a contemptible people: the time has been when we were thought otherwise. Under this same despised government, we commanded the respect of all Europe: wherefore are we now reckoned otherwise? The American spirit has fled from hence: it has gone to regions, where it has never been expected: it has gone to the people of France, in search of a splendid government—a strong, energetic government. Shall we imitate the example of those nations, who have gone from a simple to a splendid government? Are those nations more worthy of our imitation? What can make an adequate satisfaction to them for the loss they have suffered in attaining such a government—for the loss of their liberty? If we admit this consolidated government, it will be because we like a great and splendid one. Some way or other we must be a great and mighty empire; we must have an army, and a navy, and a number of things. When the American spirit was in its youth, the language of America was different: liberty, sir, was then the primary object. We are descended from a people whose government was founded on liberty: our glorious forefathers, of Great Britain, made liberty the foundation of every thing. That country is become a great, mighty and splendid nation; not because their government is strong and energetic: but, sir, because liberty is its direct end and foundation. We drew the spirit of liberty from our British ancestors; by that spirit we have triumphed over every difficulty. But now, sir, the American spirit, assisted by the ropes and chains of consolidation, is about to convert this country into a powerful and mighty empire. If you make the citizens of this country agree to become the subjects of one great consolidated empire of America, your government will not have sufficient energy to keep them together: such a government is incompatible with the genius of republicanism. There will be no checks, no

real balances, in this government. What can avail your specious, imaginary balances; your rope-dancing, chain-rattling, ridiculous, ideal checks and contrivances? But, sir, we are not feared by foreigners; we do not make nations tremble. Would this constitute happiness, or secure liberty? I trust, sir, our political hemisphere will ever direct its operations to the security of those objects. Consider our situation, sir; go to the poor man, ask him what he does; he will inform you that he enjoys the fruits of his labor, under his own fig-tree, with his wife and children around him, in peace and security. Go to every other member of the society, you will find the same tranquil ease and content; you will find no alarms or disturbances! Why then tell us of dangers, to terrify us into an adoption of this new form of government? And yet who knows the dangers that this new system may produce? They are out of the sight of the common people: they cannot foresee latent consequences. I dread the operation of it on the middling and lower classes of people: it is for them I fear the adoption of this system. I fear I tire the patience of the committee, but I beg to be indulged with a few more observations.

When I thus profess myself an advocate for the liberty of the people, I shall be told, I am a designing man, that I am to be a great man, that I am to be a demagogue; and many similar illiberal insinuations will be thrown out; but, sir, conscious rectitude outweighs these things with me. I see great jeopardy in this new government: I see none from our present one. I hope some gentleman or other will bring forth, in full array, those dangers, if there be any, that we may see and touch them; I have said that I thought this a consolidated government: I will now prove it. Will the great rights of the people be secured by this government? Suppose it should prove oppressive, how can it be altered? Our bill of rights declares, "That a majority of the community hath an indubitable, unalienable and indefeasible right to reform, alter,



or abolish it, in such manner as shall be judged most conducive to the public weal." I have just proved, that one tenth, or less, of the people of America—a most despicable minority, may prevent this reform, or alteration. Suppose the people of Virginia should wish to alter their government, can a majority of them do it? No, because they are connected with other men; or, in other words, consolidated with other states. When the people of Virginia, at a future day, shall wish to alter their government, though they should be unanimous in this desire, yet they may be prevented therefrom by a despicable minority at the extremity of the United States. The founders of your own constitution made your government changeable: but the power of changing it is gone from you! Whither is it gone? It is placed in the same hands that hold the rights of twelve other states; and those, who hold those rights, have right and power to keep them. It is not the particular government of Virginia: one of the leading features of that government is, that a majority can alter it, when necessary for the public good. This government is not a Virginian, but an American government. Is it not therefore a consolidated government? The sixth clause of your bill of rights tells you, "That elections of members to serve as representatives of the people in assembly, ought to be free, and that all men, having sufficient evidence of permanent, common interest with, and attachment to the community, have the right of suffrage, and cannot be taxed or deprived of their property, for public uses, without their own consent, or that of their representatives so elected, nor bound by any law to which they have not in like manner assented for the public good." But what does this constitution say? The clause under consideration gives an unlimited and unbounded power of taxation. Suppose every delegate from Virginia opposes a law laying a tax, what will it avail? They are opposed by a majority; eleven members can destroy their efforts: those feeble ten cannot prevent the passing the

most oppressive tax-law. So that in direct opposition to the spirit and express language of your declaration of rights, you are taxed, not by your own consent, but by people who have no connexion with you.

The next clause of the bill of rights tells you, "That all power of suspending law, or the execution of laws, by any authority, without the consent of the representatives of the people, is injurious to their rights, and ought not to be exercised." This tells us that there can be no suspension of government, or laws, without our own consent; yet this constitution can counteract and suspend any of our laws, that contravene its oppressive operation; for they have the power of direct taxation, which suspends our bill of rights; and it is expressly provided, that they can make all laws necessary for carrying their powers into execution; and it is declared paramount to the laws and constitutions of the states. Consider how the only remaining defence, we have left, is destroyed in this manner. Besides the expenses of maintaining the senate and other house in as much splendor as they please, there is to be a great and mighty president, with very extensive powers—the powers of a king. He is to be supported in extravagant magnificence: so that the whole of our property may be taken by this American government, by laying what taxes they please, giving themselves what salaries they please, and suspending our laws at their pleasure. I might be thought too inquisitive, but I believe I should take up but very little of your time in enumerating the little power that is left to the government of Virginia; for this power is reduced to little or nothing. Their garrisons, magazines, arsenals, and forts, which will be situated in the strongest places within the states—their ten miles square, with all the fine ornaments of human life, added to their powers, and taken from the states, will reduce the power of the latter to nothing. The voice of tradition, I trust, will inform posterity of our struggles for freedom. If our descendants be worthy the name of Americans, they



will preserve, and hand down to their latest posterity, the transactions of the present times; and though, I confess, my exclamations are not worthy the hearing, they will see that I have done my utmost to preserve their liberty: for I never will give up the power of direct taxation, but for a scourge. I am willing to give it conditionally; that is, after non-compliance with requisitions: I will do more, sir, and what I hope will convince the most sceptical man, that I am a lover of the American union; that in case Virginia shall not make punctual payment, the control of our custom-houses, and the whole regulation of trade, shall be given to Congress; and that Virginia shall depend on Congress even for passports, till Virginia shall have paid the last farthing, and furnished the last soldier. Nay, sir, there is another alternative to which I would consent; even that they should strike us out of the union, and take away from us all federal privileges, till we comply with federal requisitions; but let it depend upon our own pleasure to pay our money in the most easy manner for our people. Were all the states, more terrible than the mother country, to join against us, I hope Virginia could defend herself; but, sir, the dissolution of the union is most abhorrent to my mind. The first thing I have at heart is American liberty; the second thing is American union; and I hope the people of Virginia will endeavor to preserve that union. The increasing population of the southern states, is far greater than that of New England; consequently, in a short time, they will be far more numerous than the people of that country. Consider this, and you will find this state more particularly interested to support American liberty, and not bind our posterity by an improvident relinquishment of our rights. I would give the best security for a punctual compliance with requisitions; but I beseech gentlemen, at all hazards, not to grant this unlimited power of taxation.

The honorable gentleman has told us that these

powers given to Congress, are accompanied by a judiciary which will correct all. On examination, you will find this very judiciary oppressively constructed, your jury-trial destroyed, and the judges dependent on Congress. In this scheme of energetic government, the people will find two sets of tax gatherers—the state and the federal sheriffs. This, it seems to me, will produce such dreadful oppression, as the people cannot possibly bear. The federal sheriff may commit what oppression, make what distresses, he pleases, and ruin you with impunity: for how are you to tie his hands? Have you any sufficient, decided means of preventing him from sucking your blood by speculations, commissions and fees? Thus thousands of your people will be most shamefully robbed. Our state sheriffs, those unfeeling blood-suckers, have, under the watchful eye of our legislature, committed the most horrid and barbarous ravages on our people. It has required the most constant vigilance of the legislature to keep them from totally ruining the people. A repeated succession of laws has been made, to suppress their iniquitous speculations and cruel extortions; and as often has their nefarious ingenuity devised methods of evading the force of those laws: in the struggle, they have generally triumphed over the legislature. It is a fact, that lands have sold for five shillings, which were worth one hundred pounds. If sheriffs, thus immediately under the eye of our state legislature and judiciary, have dared to commit these outrages, what would they not have done if their masters had been at Philadelphia or New York? If they perpetrate the most unwarrantable outrage, on your persons or property, you cannot get redress on this side of Philadelphia or New York: and how can you get it there? If your domestic avocations could permit you to go thither, there you must appeal to judges sworn to support this constitution in opposition to that of any state, and who may also be inclined to favor their own officers. When these harpies are aid-



ed by excisemen, who may search, at any time, your houses and most secret recesses, will the people bear it? If you think so, you differ from me. Where I thought there was a possibility of such mischiefs, I would grant power with a niggardly hand; and here there is a strong probability that these oppressions shall actually happen. I may be told, that it is safe to err on that side; because such regulations may be made by Congress, as shall restrain these officers, and because laws are made by our representatives, and judged by righteous judges: but, sir, as these regulations may be made, so they may not; and many reasons there are to induce a belief, that they will not: I shall therefore be an infidel on that point till the day of my death.

This constitution is said to have beautiful features; but when I come to examine these features, sir, they appear to me horribly frightful. Among other deformities, it has an awful squinting; it squints towards monarchy: and does not this raise indignation in the breast of every true American? Your president may easily become king. Your senate is so imperfectly constructed, that your dearest rights may be sacrificed by what may be a small minority: and a very small minority may continue forever unchangeably this government, although horridly defective. Where are your checks in this government? Your strong holds will be in the hands of your enemies. It is on a supposition that your American governors shall be honest, that all the good qualities of this government are founded; but its defective and imperfect construction, puts it in their power to perpetrate the worst of mischiefs, should they be bad men. And, sir, would not all the world, from the eastern to the western hemisphere, blame our distracted folly in resting our rights upon the contingency of our rulers being good or bad? Show me that age and country where the rights and liberties of the people were placed on the sole chance of their rulers being good men, without a consequent

loss of liberty. I say that the loss of that dearest privilege has ever followed, with absolute certainty, every such mad attempt. If your American chief be a man of ambition and abilities, how easy will it be for him to render himself absolute! The army is in his hands, and, if he be a man of address, it will be attached to him; and it will be the subject of long meditation with him to seize the first auspicious moment to accomplish his design. And, sir, will the American spirit solely relieve you when this happens? I would rather infinitely, and I am sure most of this convention are of the same opinion, have a king, lords and commons, than a government, so replete with such insupportable evils. If we make a king, we may prescribe the rules by which he shall rule his people, and interpose such checks as shall prevent him from infringing them: but the president in the field, at the head of his army, can prescribe the terms on which he shall reign master, so far that it will puzzle any American ever to get his neck from under the galling yoke. I cannot, with patience, think of this idea. If ever he violates the laws, one of two things will happen: he will come at the head of his army to carry every thing before him; or, he will give bail, or do what Mr. Chief Justice will order him. If he be guilty, will not the recollection of his crimes teach him to make one bold push for the American throne? Will not the immense difference between being master of every thing, and being ignominiously tried and punished, powerfully excite him to make this bold push? But, sir, where is the existing force to punish him? Can he not, at the head of his army, beat down every opposition? Away with your president, we shall have a king: the army will salute him monarch; your militia will leave you, and assist in making him king, and fight against you: and what have you to oppose this force? What will then become of you and your rights? Will not absolute despotism ensue? [Here Mr. Henry strongly and pathetically expatiated on the



probability of the president's enslaving America, and the horrid consequences that must result.]

What can be more defective than the clause concerning the elections? The control given to Congress, over the time, place and manner of holding elections, will totally destroy the end of suffrage. The elections may be held at one place, and the most inconvenient in the state; or they may be at remote distances from those who have a right of suffrage: hence, nine out of ten must either not vote at all, or vote for strangers: for the most influential characters will be applied to, to know who are the most proper to be chosen. I repeat, that the control of Congress over the manner, &c. of electing, well warrants this idea. The natural consequence will be, that this democratic branch will possess none of the public confidence: the people will be prejudiced against representatives chosen in such an injudicious manner. The proceedings in the northern conclave, will be hidden from the yeomanry of this country. We are told, that the yeas and nays shall be taken and entered on the journals: this, sir, will avail nothing: it may be locked up in their chests, and concealed forever from the people; for they are not to publish what parts they think require secrecy; they may think, and will think, the whole requires it.

Another beautiful feature of this constitution, is the publication, from time to time, of the receipts and expenditures of the public money. This expression, from time to time, is very indefinite and indeterminate: it may extend to a century. Grant that any of them are wicked, they may squander the public money so as to ruin you, and yet this expression will give you no redress. I say, they may ruin you; for where, sir, is the responsibility? The yeas and nays will show you nothing, unless they be fools as well as knaves: for, after having wickedly trampled on the rights of the people, they would act like fools indeed, were they to publish and divulge their iniquity, when they have it

equally in their power to suppress and conceal it. Where is the responsibility—that leading principle in the British government? In that government, a punishment, certain and inevitable, is provided: but in this, there is no real, actual punishment for the grossest mal-administration. They may go without punishment, though they commit the most outrageous violation on our immunities. That paper may tell me they will be punished. I ask, by what law? They must make the law, for there is no existing law to do it. What—will they make a law to punish themselves? This, sir, is my great objection to the constitution, that there is no true responsibility, and that the preservation of our liberty depends on the single chance of men being virtuous enough to make laws to punish themselves. In the country from which we are descended, they have real, and not imaginary responsibility; for there, mal-administration has cost their heads to some of the most saucy geniuses that ever were. The senate, by making treaties, may destroy your liberty and laws, for want of responsibility. Two thirds of those that shall happen to be present, can, with the president, make treaties, that shall be the supreme law of the land: they may make the most ruinous treaties, and yet there is no punishment for them. Whoever shows me a punishment provided for them, will oblige me. So, sir, notwithstanding there are eight pillars, they want another. Where will they make another? I trust, sir, the exclusion of the evils wherewith this system is replete, in its present form, will be made a condition precedent to its adoption, by this or any other state. The transition from a general, unqualified admission to offices, to a consolidation of government, seems easy; for, though the American states are dissimilar in their structure, this will assimilate them: this, sir, is itself a strong consolidating feature, and is not one of the least dangerous in that system. Nine states are sufficient to establish this government over those nine. Imagine that nine have



come into it. Virginia has certain scruples. Suppose she will consequently refuse to join with those states : may not they still continue in friendship and union with her ? If she sends her annual requisitions in dollars, do you think their stomachs will be so squeamish as to refuse her dollars ? Will they not accept her regiments ? They would intimidate you into an inconsiderate adoption, and frighten you with ideal evils, and that the union shall be dissolved. 'Tis a bugbear, sir : the fact is, sir, that the eight adopting states can hardly stand on their own legs. Public fame tells us, that the adopting states have already heart-burnings and animosity, and repent their precipitate hurry : this, sir, may occasion exceeding great mischief. When I reflect on these, and many other circumstances, I must think those states will be fond to be in confederacy with us. If we pay our quota of money annually, and furnish our rateable number of men, when necessary, I can see no danger from a rejection. The history of Switzerland clearly proves, that we might be in amicable alliance with those states, without adopting this constitution. Switzerland is a confederacy, consisting of dissimilar governments. This is an example, which proves that governments, of dissimilar structures, may be confederated. That confederate republic has stood upwards of four hundred years ; and, although several of the individual republics are democratic, and the rest aristocratic, no evil has resulted from this dissimilarity, for they have braved all the power of France and Germany, during that long period. The Swiss spirit, sir, has kept them together : they have encountered and overcome immense difficulties, with patience and fortitude. In the vicinity of powerful and ambitious monarchs, they have retained their independence, republican simplicity and valor. [Here Mr. Henry drew a comparison between the people of that country and those of France, and made a quotation from Addison, illustrating the subject.] Look at the peasants of that country, and of France, and mark the dif-

ference. You will find the condition of the former far more desirable and comfortable. No matter whether a people be great, splendid and powerful, if they enjoy freedom. The Turkish Grand Seignior, along side of our president, would put us to disgrace: but we should be abundantly consoled for this disgrace, should our citizen be put in contrast with the Turkish slave.

The most valuable end of government, is the liberty of the inhabitants. No possible advantages can compensate for the loss of this privilege. Show me the reason why the American union is to be dissolved. Who are those eight adopting states? Are they averse to give us a little time to consider, before we conclude? Would such a disposition render a junction with them eligible: or, is it the genius of that kind of government, to precipitate people hastily into measures of the utmost importance, and grant no indulgence? If it be, sir, is it for us to accede to such a government? We have a right to have time to consider—we shall therefore insist upon it. Unless the government be amended, we can never accept it. The adopting states will doubtless accept our money and our regiments; and what is to be the consequence, if we are disunited? I believe that it is yet doubtful, whether it is not proper to stand by a while, and see the effect of its adoption in other states. In forming a government, the utmost care should be taken, to prevent its becoming oppressive; and this government is of such an intricate and complicated nature, that no man on this earth, can know its real operation. The other states have no reason to think, from the antecedent conduct of Virginia, that she has any intention of seceding from the union, or of being less active to support the general welfare. Would they not, therefore, acquiesce in our taking time to deliberate—deliberate whether the measure be not perilous, not only for us, but the adopting states. Permit me, sir, to say, that a great majority of the people, even in the adopting states, are averse to this government.



I believe I would be right to say, that they have been egregiously misled. Pennsylvania has, perhaps, been tricked into it. If the other states, who have adopted it, have not been tricked, still they were too much hurried into its adoption. There were very respectable minorities in several of them; and, if reports be true, a clear majority of the people are averse to it. If we also accede, and it should prove grievous, the peace and prosperity of our country, which we all love, will be destroyed. This government has not the affection of the people, at present. Should it be oppressive, their affection will be totally estranged from it—and, sir, you know, that a government without their affections, can neither be durable nor happy. I speak as one poor individual—but, when I speak, I speak the language of thousands. But, sir, I mean not to breathe the spirit, nor utter the language of secession.

I have trespassed so long on your patience, I am really concerned that I have something yet to say. The honorable member has said that we shall be properly represented: remember, sir, that the number of our representatives is but ten, whereof six are a majority. Will those men be possessed of sufficient information? A particular knowledge of particular districts, will not suffice. They must be well acquainted with agriculture, commerce, and a great variety of other matters throughout the continent; they must know not only the actual state of nations in Europe and America, the situation of their farmers, cottagers and mechanics, but also the relative situation and intercourse of those nations. Virginia is as large as England. Our proportion of representatives is but ten men. In England they have five hundred and thirty. The house of commons in England, numerous as they are, we are told, is bribed, and have bartered away the rights of their constituents: what then shall become of us? Will these few protect our rights? Will they be incorruptible? You say they will be better men than the English commoners. I say they

will be infinitely worse men, because they are to be chosen blindfolded: their election, (the term, as applied to their appointment, is inaccurate,) will be an involuntary nomination, and not a choice. I have, I fear, fatigued the committee, yet I have not said the one hundred thousandth part of what I have on my mind, and wish to impart. On this occasion, I conceived myself bound to attend strictly to the interest of the state; and I thought her dearest rights at stake: having lived so long—been so much honored—my efforts, though small, are due to my country. I have found my mind hurried on from subject to subject, on this very great occasion. We have all been out of order, from the gentleman who opened to day, to myself. I did not come prepared to speak on so multifarious a subject, in so general a manner. I trust you will indulge me another time. Before you abandon the present system, I hope you will consider not only its defects, most maturely, but likewise those of that which you are to substitute for it. May you be fully apprised of the dangers of the latter, not by fatal experience, but by some abler advocate than I.



*B. V. I. p. 40*

## SPEECH OF EDMUND RANDOLPH,

ON THE EXPEDIENCY OF ADOPTING THE

### FEDERAL CONSTITUTION,

DELIVERED IN THE CONVENTION OF VIRGINIA, JUNE 6th, 1788.

*Ed. Randolph was born June 10th 1753. He was a member of the Virginia Convention of 1788. He was Governor of Virginia from 1791 to 1795. He died in 1813.*

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The first and second sections of the first article of the constitution being under consideration, Mr. Randolph addressed the convention as follows :—

MR. CHAIRMAN,

I AM a child of the revolution. My country, very early indeed, took me under her protection, at a time when I most wanted it; and by a succession of favors and honors, prevented even my most ardent wishes. I feel the highest gratitude and attachment to my country; her felicity is the most fervent prayer of my heart. Conscious of having exerted my faculties to the utmost in her behalf, if I have not succeeded in securing the esteem of my countrymen, I shall reap abundant consolation from the rectitude of my intentions: honors, when compared to the satisfaction accruing from a conscious independence and rectitude of conduct, are no equivalent. The unwearied study of my life, shall be to promote her happiness. As a citizen, ambition and popularity are no objects with me. I expect, in the course of a year, to retire to that private station which I most sincerely and cordially prefer to all others.\* The security of public justice, sir, is what I

\* Mr. Randolph was at this time Governor of Virginia.

most fervently wish—as I consider that object to be the primary step to the attainment of public happiness. I can declare to the whole world, that in the part I take in this very important question, I am actuated by a regard for what I conceive to be our true interest. I can also, with equal sincerity, declare that I would join heart and hand in rejecting this system, did I conceive it would promote our happiness: but having a strong conviction on my mind, at this time, that, by a disunion, we shall throw away all those blessings we have so earnestly fought for, and that a rejection of the constitution will operate disunion—pardon me if I discharge the obligation I owe to my country by voting for its adoption. We are told that the report of dangers is false. The cry of peace, sir, is false: say peace, when there is peace: it is but a sudden calm. The tempest growls over you—look around—wheresoever you look, you see danger. When there are so many witnesses, in many parts of America, that justice is suffocated, shall peace and happiness still be said to reign? Candor, sir, requires an undisguised representation of our situation. Candor, sir, demands a faithful exposition of facts. Many citizens have found justice strangled and trampled under foot, through the course of jurisprudence in this country. Are those, who have debts due them, satisfied with your government? Are not creditors wearied with the tedious procrastination of your legal process—a process obscured by legislative mists? Cast your eyes to your sea-ports, see how commerce languishes: this country, so blessed by nature, with every advantage that can render commerce profitable, through defective legislation, is deprived of all the benefits and emoluments she might otherwise reap from it. We hear many complaints on the subject of located lands—a variety of competitors claiming the same lands under legislative acts—public faith prostrated, and private confidence destroyed. I ask you if your laws are revered? In every well regulated community, the laws command



respect. Are yours entitled to reverence? We not only see violations of the constitution, but of national principles in repeated instances. How is the fact? The history of the violations of the constitution, extends from the year 1776, to this present time—violations made by formal acts of the legislature; every thing has been drawn within the legislative vortex. There is one example of this violation in Virginia, of a most striking and shocking nature; an example, so horrid, that if I conceived my country would passively permit a repetition of it, dear as it is to me, I would seek means of expatriating myself from it. A man, who was then a citizen, was deprived of his life, thus: from a mere reliance on general reports, a gentleman in the house of delegates informed the house, that a certain man (Josiah Phillips) had committed several crimes, and was running at large, perpetrating other crimes; he therefore moved for leave to attaint him. He obtained that leave instantly. No sooner did he obtain it, than he drew from his pocket a bill already written for that effect; it was read three times in one day, and carried to the senate: I will not say that it passed the same day through the senate; but he was attainted very speedily and precipitately, without any proof better than vague reports! Without being confronted with his accusers and witnesses; without the privilege of calling for evidence in his behalf, he was sentenced to death, and was afterwards actually executed. Was this arbitrary deprivation of life, the dearest gift of God to man, consistent with the genius of a republican government? Is this compatible with the spirit of freedom? This, sir, has made the deepest impression on my heart, and I cannot contemplate it without horror.

There are still a multiplicity of complaints of the debility of the laws. Justice, in many instances, is so unattainable, that commerce may, in fact, be said to be stopped entirely. There is no peace, sir, in this land: can peace exist with injustice, licentiousness, insecu-

rity and oppression? These considerations, independent of many others which I have not yet enumerated, would be a sufficient reason for the adoption of this constitution, because it secures the liberty of the citizen, his person and property, and will invigorate and restore commerce and industry.

An additional reason to induce us to adopt it, is that excessive licentiousness which has resulted from the relaxation of our laws, and which will be checked by this government. Let us judge from the fate of more ancient nations. Licentiousness has produced tyranny among many of them: it has contributed as much, (if not more,) as any other cause whatsoever, to the loss of their liberties. I have respect for the integrity of our legislators; I believe them to be virtuous: but as long as the defects of the constitution exist, so long will laws be imperfect. The honorable gentleman went on further, and said, that the accession of eight states is not a reason for our adoption. Many other things have been alledged out of order—instead of discussing the system regularly, a variety of points are promiscuously debated, in order to make temporary impressions on the members. Sir, were I convinced of the validity of their arguments, I would join them heart and hand. Were I convinced that the accessions of eight states, did not render our accession also necessary to preserve the union, I would not accede to it till it should be previously amended: but, sir, I am convinced that the union will be lost by our rejection. Massachusetts has adopted it; she has recommended subsequent amendments; her influence must be very considerable to obtain them: I trust my countrymen have sufficient wisdom and virtue to entitle them to equal respect.

Is it urged, that being wiser, we ought to prescribe amendments to the other states? I have considered this subject deliberately; wearied myself in endeavoring to find a possibility of preserving the union, without our unconditional ratification; but, sir, in vain; I



find no other means. I ask myself a variety of questions applicable to the adopting states, and I conclude, will they repent of what they have done? Will they acknowledge themselves in an error? Or, will they recede to gratify Virginia? My prediction is, that they will not. Shall we stand by ourselves, and be severed from the union if amendments cannot be had? I have every reason for determining within myself, that our rejection must dissolve the union; and that that dissolution will destroy our political happiness. The honorable gentleman was pleased to draw out several other arguments, out of order: that this government would destroy the state governments, the trial by jury, &c. &c. and concluded, by an illustration of his opinion, by a reference to the confederacy of the Swiss. Let us argue with unprejudiced minds: he says, that the trial by jury is gone—is this so? Although I have declared my determination to give my vote for it, yet I shall freely censure those parts which appear to me reprehensible. The trial by jury, in criminal cases, is secured; in civil cases, it is not so expressly secured, as I could wish it; but it does not follow, that Congress has the power of taking away this privilege, which is secured by the constitution of each state, and not given away by this constitution. I have no fear on this subject—Congress must regulate it so as to suit every state. I will risk my property on the certainty, that they will institute the trial by jury in such manner as shall accommodate the conveniences of the inhabitants in every state: the difficulty of ascertaining this accommodation, was the principal cause of its not being provided for. It will be the interest of the individuals composing Congress, to put it on this convenient footing. Shall we not choose men respectable for their good qualities? Or can we suppose that men, tainted with the worst vices, will get into Congress? I beg leave to differ from the honorable gentleman, in another point. He dreads that great inconveniences will ensue from the federal court; that

our citizens will be harrassed by being carried thither. I cannot think that this power of the federal judiciary, will necessarily be abused. The inconvenience here suggested, being of a general nature, affecting most of the states, will, by general consent of the states, be removed; and, I trust, such regulations shall be made, in this case, as will accommodate the people in every state. The honorable gentleman instanced the Swiss cantons, as an example, to show us the possibility, if not expediency, of being in amicable alliance with the other states, without adopting this system. Sir, references to history will be fatal in political reasoning, unless well guarded. Our mental ability is often so contracted, and powers of investigation so limited, that sometimes we adduce as an example in our favor, what in fact militates against us. Examine the situation of that country comparatively to us. Its extent and situation are totally different from ours; it is surrounded by powerful, ambitious, and reciprocally jealous nations: its territory small and the soil not very fertile. The peculiarity, sir, of their situation, has kept these cantons together, and not that system of alliance, to which the gentleman seems to attribute the durability, and felicity of their connexion.

[Here Mr. Randolph quoted some passages from Stanyard, illustrating his argument, and largely commented upon them. The effect of which was, that the narrow confines of that country rendered it very possible for a system of confederacy to accommodate those cantons, that would not suit the United States: that it was the fear of the ambitious and warlike nations that surrounded them, and the reciprocal jealousy of the other European powers that rendered their union so durable; and that notwithstanding these circumstances, and their being a hardy race of people, yet such was the injudicious construction of their confederacy, that very considerable broils sometimes interrupted their harmony.]

He then continued—I have produced this example



to show, that we ought not to be amused with historical references, which have no kind of analogy to the points under our consideration. We ought to confine ourselves to those points solely, which have an immediate and strict similitude, to the subject of our discussion. The reference made by the honorable gentleman over the way, is extremely inapplicable to us. Are the Swiss cantons circumstanced as we are? Are we surrounded by formidable nations—or are we situated in any manner like them? We are not, sir. Then it naturally results, that no such friendly intercourse as he flattered himself with, could take place, in case of a dissolution of our union. We are remotely situated from powerful nations, the dread of whose attack might impel us to unite firmly with one another; we are not situated in an inaccessible, strong position: we have to fear much from one another: we must soon feel the fatal effects of an imperfect system of union.

The honorable gentleman attacks the constitution, as he thinks it contrary to our bill of rights. Do we not appeal to the people, by whose authority all government is made? That bill of rights is of no validity, because, I conceive, it is not formed on due authority. It is not a part of our constitution: it has never secured us against any danger: it has been repeatedly disregarded and violated. But we must not discard the confederation, for the remembrance of its past services. I am attached to old servants. I have regard and tenderness for this old servant: but when reason tells us, that it can no longer be retained without throwing away all it has gained us, and running the risk of losing every thing dear to us, must we still continue our attachment? Reason and my duty tell me not. Other gentlemen may think otherwise. But, sir, is it not possible that men may differ in sentiments, and still be honest? We have an inquisition within ourselves, that leads us not to offend so much against charity. The gentleman expresses a necessity of be-

ing suspicious of those who govern. I will agree with him in the necessity of political jealousy to a certain extent: but we ought to examine, how far this political jealousy ought to be carried. I confess that a certain degree of it, is highly necessary to the preservation of liberty; but it ought not to be extended to a degree which is degrading and humiliating to human nature; to a degree of restlessness and active disquietude, sufficient to disturb a community, or preclude the possibility of political happiness and contentment. Confidence ought also to be equally limited. Wisdom shrinks from extremes, and fixes on a medium as her choice. Experience and history, the least fallible judges, teach us that in forming a government, the powers to be given must be commensurate to the object. A less degree will defeat the intention, and a greater will subject the people to the depravity of rulers, who, though they are but the agents of the people, pervert their powers to their own emolument, and ambitious views.

Mr. Chairman, I am sorry to be obliged to detain the house, but the relation of a variety of matters, renders it now unavoidable. I informed the house yesterday, before rising, that I intended to show the necessity of having a national government, in preference to the confederation; also, to show the necessity of conceding the power of taxation, and of distinguishing between its objects; and I am the more happy, that I possess materials of information for that purpose. My intention then is, to satisfy the gentlemen of this committee, that a national government is absolutely indispensable, and that a confederacy is not eligible, in our present situation. The introductory step to this will be, to endeavor to convince the house of the necessity of the union, and that the present confederation is actually inadequate and unamendable. The extent of the country is objected to, by the gentleman over the way, as an insurmountable obstacle to the establishing a national government in the United



States. It is a very strange and inconsistent doctrine, to admit the necessity of the union, and yet urge this last objection, which I think goes radically to the existence of the union itself. If the extent of the country be a conclusive argument against a national government, it is equally so, against an union with the other states. Instead of entering largely into a discussion of the nature and effect of the different kinds of government, or into an inquiry into the particular extent of country, that may suit the genius of this or that government, I ask this question—is this government necessary for the safety of Virginia? Is the union indispensable for our happiness? I confess it is imprudent for any nation to form alliance with another, whose situation and construction of government are dissimilar with its own. It is impolitic and improper for men of opulence to join their interest with men of indigence and chance. But we are now inquiring, particularly, whether Virginia, as contradistinguished from the other states, can exist without the union—a hard question, perhaps, after what has been said. I will venture, however, to say, she cannot. I shall not rest contented with asserting, I shall endeavor to prove. Look at the most powerful nations on earth. England and France have had recourse to this expedient. Those countries found it necessary to unite with their immediate neighbors, and this union has prevented the most lamentable mischiefs. What divine pre-eminence is Virginia possessed of, above other states? Can Virginia send her navy and thunder, to bid defiance to foreign nations? And can she exist without an union with her neighbors, when the most potent nations have found such an union necessary, not only to their political felicity, but their national existence? Let us examine her ability. Although it be impossible to determine, with accuracy, what degree of internal strength a nation ought to possess, to enable it to stand by itself; yet there are certain sure facts and circumstances, which demonstrate, that a

particular nation cannot stand singly. I have spoken with freedom, and, I trust, I have done it with decency; but I must also speak with truth. If Virginia can exist without the union, she must derive that ability from one or other of these sources, viz: from her natural situation, or because she has no reason to fear from other nations. What is her situation? She is not inaccessible. She is not a petty republic, like that of St. Marino, surrounded with rocks and mountains, with a soil not very fertile, nor worthy the envy of surrounding nations. Were this, sir, her situation, she might, like that petty state, subsist, separated from all the world. On the contrary, she is very accessible: the large, capacious bay of Chesapeake, which is but too excellently adapted for the admission of enemies, renders her very vulnerable. I am informed, and I believe rightly, because I derive my information from those whose knowledge is most respectable, that Virginia is in a very unhappy position, with respect to the access of foes by sea, though happily situated for commerce. This being her situation by sea, let us look at land. She has frontiers adjoining the states of Pennsylvania, Maryland and North Carolina. Two of those states have declared themselves members of the union. Will she be inaccessible to the inhabitants of those states? Cast your eyes to the western country, that is inhabited by cruel savages, your natural enemies. Besides their natural propensity to barbarity, they may be excited, by the gold of foreign enemies, to commit the most horrid ravages on your people. Our great, increasing population, is one remedy to this evil; but, being scattered thinly over so extensive a country, how difficult it is to collect their strength, or defend the country. This is one point of weakness. I wish, for the honor of my countrymen, that it was the only one. There is another circumstance which renders us more vulnerable. Are we not weakened by the population of those whom we hold in slavery? The day may come, when they may make an impression upon us. Gentle-



men, who have been long accustomed to the contemplation of the subject, think there is a cause of alarm in this case. The number of those people, compared to that of the whites, is in an immense proportion: their number amounts to two hundred and thirty-six thousand, that of the whites only to three hundred and fifty-two thousand. Will the American spirit, so much spoken of, repel an invading enemy, or enable you to obtain an advantageous peace? Manufactures and military stores, may afford relief to a country exposed: have we these at present? Attempts have been made to have these here. If we shall be separated from the union, shall our chance of having these be greater? Or, will not the want of these be more deplorable? We shall be told of the exertions of Virginia, under the confederation—her achievements, when she had no commerce. These, sir, were necessary for her immediate safety, nor would these have availed, without the aid of the other states. Those states, then our friends, brothers and supporters, will, if disunited from us, be our bitterest enemies.

If then, sir, Virginia, from her situation, is not inaccessible, or invulnerable; let us consider if she be protected, by having no cause to fear from other nations: has she no cause to fear? You will have cause to fear, as a nation, if disunited; you will not only have this cause to fear from yourselves, from that species of population I before mentioned, and your once sister states, but from the arms of other nations. Have you no cause of fear from Spain, whose dominions border on your country? Every nation, every people, in our circumstances, have always had abundant cause to fear. Let us see the danger to be apprehended from France: let us suppose Virginia separated from the other states: as part of the former confederated states, she will owe France a very considerable sum—France will be as magnanimous as ever. France, by the law of nations, will have a right to demand the whole of her, or of the others. If France were to demand it, what

would become of the property of America? Could she not destroy what little commerce we have? Could she not seize our ships, and carry havoc and destruction before her on our shores? The most lamentable desolation would take place. We owe a debt to Spain also; do we expect indulgence from that quarter? That nation has a right to demand the debt due to it, and power to enforce that right. Will the Dutch be silent about the debt due to them? Is there any one pretension, that any of these nations will be patient? The debts due the British are also very considerable: these debts have been withheld contrary to treaty: if Great Britain will demand the payment of these debts, peremptorily, what will be the consequence? Can we pay them if demanded? Will no danger result from a refusal? Will the British nation suffer their subjects to be stripped of their property? Is not that nation amply able to do its subjects justice? Will the resentment of that powerful and supercilious nation sleep forever? If we become one, sole nation, uniting with our sister states, our means of defence will be greater; the indulgence, for the payment of those debts, will be greater, and the danger of an attack less probable. Moreover, vast quantities of lands have been sold, by citizens of this country, to Europeans, and these lands cannot be found. Will this fraud be countenanced or endured? Among so many causes of danger, shall we be secure, separated from our sister states? Weakness itself, sir, will invite some attack upon your country. Contemplate our situation deliberately, and consult history: it will inform you, that people, in our circumstances, have ever been attacked, and successfully: open any page, and you will there find our danger truly depicted. If such a people had any thing, was it not taken? The fate which will befall us, I fear, sir, will be, that we shall be made a partition of. How will these, our troubles, be removed? Can we have any dependence on commerce? Can we make any computation on



this subject? Where will our flag appear? So high is the spirit of commercial nations, that they will spend five times the value of the object, to exclude their rivals from a participation in commercial profits: they seldom regard any expenses. If we should be divided from the rest of the states, upon what footing would our navigation in the Mississippi be? What would be the probable conduct of France and Spain? Every gentleman may imagine, in his own mind, the natural consequences. To these considerations, I might add many others of a similar nature. Were I to say, that the boundary, between us and North Carolina, is not yet settled, I should be told, that Virginia and that state go together. But what, sir, will be the consequence of the dispute that may arise between us and Maryland, on the subject of Potomac river? It is thought, Virginia has a right to an equal navigation with them in that river. If ever it should be decided on grounds of prior right, their charter will inevitably determine it in their favor. The country called the Northern Neck, will probably be severed from Virginia. There is not a doubt, but the inhabitants of that part will annex themselves to Maryland, if Virginia refuse to accede to the union. The recent example of those regulations, lately made respecting that territory, will illustrate that probability. Virginia will also be in danger of a conflict with Pennsylvania, on the subject of boundaries. I know that some gentlemen are thoroughly persuaded, that we have a right to those disputed boundaries: if we have such a right, I know not where it is to be found.

Are we not borderers on states that will be separated from us? Call to mind the history of every part of the world, where nations have bordered on one another, and consider the consequences of our separation from the union. Peruse those histories, and you find such countries to have ever been almost a perpetual scene of bloodshed and slaughter. The inhabitants of one, escaping from punishment into the other—protection

given them—consequent pursuit, robbery, cruelty and murder. A numerous standing army, that dangerous expedient, would be necessary, but not sufficient, for the defence of such borders. Every gentleman will amplify the scene in his own mind. If you wish to know the extent of such a scene, look at the history of England and Scotland before the union; you will see their borderers continually committing depredations and cruelties, of the most calamitous and deplorable nature, on one another.

Mr. Chairman, were we struck off from the union, and disputes of the back lands should be renewed, which are of the most alarming nature, and which must produce uncommon mischiefs, can you inform me how this great subject would be settled? Virginia has a large unsettled country: she has, at last, quieted it: but there are great doubts whether she has taken the best way to effect it. If she has not, disagreeable consequences may ensue. I have before hinted at some other causes of quarrel between the other states and us: particularly the hatred that would be generated by commercial competition. I will only add, on that subject, that controversies may arise concerning the fisheries, which must terminate in wars. Paper money may also be an additional source of disputes. Rhode Island has been in one continued train of opposition to national duties and integrity: they have defrauded their creditors by their paper money. Other states have also had emissions of paper money, to the ruin of credit and commerce. May not Virginia, at a future day, also recur to the same expedient? Has Virginia no affection for paper money, or disposition to violate contracts? I fear she is as fond of these measures as most other states in the union. The inhabitants of the adjacent states, would be affected by the depreciation of paper money, which would assuredly produce a dispute with those states. This danger is taken away by the present constitution, as it provides, “That no state shall emit bills of



credit." Maryland has counteracted the policy of this state frequently, and may be meditating examples of this kind again. Before the revolution, there was a contest about those back lands, in which even government was a party: it was put an end to by the war. Pennsylvania was ready to enter into a war with us for the disputed lands near the boundaries, and nothing but the superior prudence of the man, who was at the head of affairs in Virginia, could have prevented it.

I beg leave to remind you of the strength of Massachusetts, and other states to the north, and what would their conduct be to us if disunited from them. In case of a conflict between us and Maryland or Pennsylvania, they would be aided by the whole strength of the more northern states; in short, by that of all the adopting states. For these reasons, I conceive, that if Virginia supposes she has no cause of apprehension, she will find herself in a fatal error. Suppose the American spirit in the fullest vigor in Virginia, what military preparations and exertions is she capable of making? The other states have upwards of three hundred and thirty thousand men capable of bearing arms: this will be a good army, or they can very easily raise a good army out of so great a number. Our militia amounts to fifty thousand; even stretching it to the improbable amount (urged by some,) of sixty thousand—in case of an attack, what defence can we make? Who are militia? Can we depend solely upon these? I will pay the last tribute of gratitude to the militia of my country: they performed some of the most gallant feats during the last war, and acted as nobly as men, inured to other avocations, could be expected to do: but, sir, it is dangerous to look to them as our sole protectors. Did ever militia defend a country? Those of Pennsylvania were said to differ very little from regulars, yet these, sir, were insufficient for the defence of that state. The militia of our country will be wanted for agricul-

ture: on this noblest of arts, depends the virtue and the very existence of a country: if it be neglected, every thing else must be in a state of ruin and decay. It must be neglected if those hands, which ought to attend to it, are occasionally called forth on military expeditions. Some, also, will be necessary for manufactures, and those mechanic arts which are necessary for the aid of the farmer and planter. If we had men, sufficient in number to defend ourselves, it could not avail without other requisites. We must have a navy, to be supported in time of peace as well as war, to guard our coasts and defend us against invasions. The impossibility of building and equipping a fleet, in a short time, constitutes the necessity of having a certain number of ships of war always ready in time of peace. The maintaining a navy will require money—and where, sir, can we get money for this and other purposes? How shall we raise it? Review the enormity of the debts due by this country: the amount of the debt we owe to the continent, for bills of credit, rating at forty for one, will amount to between six and seven hundred thousand pounds. There is also due the continent, the balance of requisitions due by us, and, in addition to this proportion of the old continental debt, there are the foreign, domestic, state military, and loan-office debts, to which, when you add the British debt, where is the possibility of finding money to raise an army or navy? Review then your real ability. Shall we recur to loans? Nothing can be more impolitic: they impoverish a nation: we, sir, have nothing to repay them; nor, sir, can we procure them. Our numbers are daily increasing by emigration; but this, sir, will not relieve us, when our credit is gone, and it is impossible to borrow money. If the imposts and duties in Virginia, even on the present footing, be very unproductive, and not equal to our necessities, what would they be if we were separated from the union? From the first of September, to the first of June, the amount, put into the treasury, is only fifty nine



thousand pounds, or a little more. But, sir, if smuggling be introduced in consequence of high duties, or otherwise, and the Potomac should be lost, what hope is there of getting money from these?

Shall we be asked if the impost would be bettered by the union? I answer that it will, sir. Credit being restored and confidence diffused in the country, merchants and men of wealth will be induced to come among us; emigration will increase, and commerce will flourish: the impost will therefore be more sure and productive. Under these circumstances, can you find men to defend you? If not men, where can you have a navy? It is an old observation, that he, who commands at sea, will command the land; and it is justified by modern experience in war. The sea can only be commanded by commercial nations. The United States have every means, by nature, to enable them to distribute supplies mutually among one another, to supply other nations with many articles, and to carry for other nations. Our commerce would not be kindly received by foreigners, if transacted solely by ourselves; as it is the spirit of commercial nations to engross as much as possible, the carrying trade: this makes it necessary to defend our commerce: but how shall we encompass this end? England has arisen to the greatest height, in modern times, by her navigation act and other excellent regulations. The same means would produce the same effects. We have inland navigation. Our last exports did not exceed one million of pounds. Our export trade is entirely in the hands of foreigners. We have no manufactures—depend for supplies on other nations, and so far are we from having any carrying trade, that, as I have already said, our exports are in the hands of foreigners. Besides the profit that might be made by our natural materials, much greater gains would accrue from their being first wrought before they were exported. England has reaped immense profits by this, nay, even by purchasing and working up those

materials which their country did not afford : her success in commerce is generally ascribed to her navigation act. Virginia would not, incumbered as she is, agree to have such an act. Thus, for the want of a navy, are we deprived of the multifarious advantages of our natural situation ; nor is it possible, that if the union is dissolved, we ever should have a navy sufficient either for our defence or the extension of our trade. I beg gentlemen to consider these two things—our inability to raise and man a navy, and the dreadful consequences of the dissolution of the union.

I will close this catalogue of the evils of the dissolution of the union, by recalling to your mind what passed in the year 1781. Such was the situation of our affairs then, that the powers of a dictator were given to the commander in chief to save us from destruction. This shows the situation of the country to have been such, as made it ready to embrace an actual dictator. At some future period, will not our distresses impel us to do what the Dutch have done—throw all power into the hands of a stadtholder ? How infinitely more wise and eligible, than this desperate alternative, is an union with our American brethren ? I feel myself so abhorrent to any thing that will dissolve our union, that I cannot prevail with myself to assent to it directly or indirectly. If the union is to be dissolved, what step is to be taken ? Shall we form a partial confederacy ; or, is it expected that we shall successfully apply to foreign alliance for military aid ? This last measure, sir, has ruined almost every nation that has used it ; so dreadful an example ought to be most cautiously avoided ; for seldom has a nation recurred to the expedient of foreign succor, without being ultimately crushed by that succor. We may lose our liberty and independence by this injudicious scheme of policy. Admitting it to be a scheme replete with safety, what nation shall we solicit—France ? She will disdain a connexion with a people in our predicament. I would trust every thing to the magnanimity of that nation, but she



would despise a people who had, like us, so imprudently separated from their brethren; and, sir, were she to accede to our proposal, with what facility could she become mistress of our country. To what nation then, shall we apply—to Great Britain? Nobody has as yet trusted that idea. An application to any other, must be either fruitless or dangerous; to those who advocate local confederacies, and at the same time preach up for republican liberty, I answer, that their conduct is inconsistent; the defence of such partial confederacies will require such a degree of force and expense, as will destroy every feature of republicanism. Give me leave to say, that I see nought but destruction in a local confederacy. With what state can we confederate but North Carolina—North Carolina, situated worse than ourselves? Consult your own reason: I beseech gentlemen most seriously to reflect on the consequences of such a confederacy: I beseech them to consider, whether Virginia and North Carolina, both oppressed with debts and slaves, can defend themselves externally, or make their people happy internally. North Carolina having no strength but militia, and Virginia in the same situation, will make, I fear, but a despicable figure in history. Thus, sir, I hope that I have satisfied you, that we are unsafe without an union, and that in union alone safety consists.

I come now, sir, to the great inquiry, whether the confederation be such a government as we ought to continue under; whether it be such a government, as can secure the felicity of any free people. Did I believe the confederation was a good thread, which might be broken without destroying its utility entirely, I might be induced to concur in putting it together; but I am so thoroughly convinced of its incapacity to be mended or spliced, that I would sooner recur to any other expedient.

When I spoke last, I endeavored to express my sentiments concerning that system, and to apologize

(if an apology was necessary,) for the conduct of its framers—that it was hastily devised, to enable us to repel a powerful enemy—that the subject was novel, and that its inefficacy was not discovered, till requisitions came to be made by Congress. In the then situation of America, a speedy remedy was necessary to ward off the danger, and this sufficiently answered that purpose: but so universally is its imbecility now known, that it is almost useless for me to exhibit it at this time. Has not Virginia, as well as every other state, acknowledged its debility, by sending delegates to the general convention? The confederation is, of all things, the most unsafe, not only to trust to, in its present form, but even to amend. The object of a federal government, is to remedy and strengthen the weakness of its individual branches; whether that weakness arises from situation, or any other external cause. With respect to the first, is it not a miracle that the confederation carried us through the last war? It was our unanimity, sir, that carried us through it. That system was not ultimately concluded till the year 1781—although the greatest exertions were made before that time. Then came requisitions of men and money: its defects then were immediately discovered: the quotas of men were readily sent—not so those of money. One state feigned inability, another would not comply till the rest did; and various excuses were offered; so that no money was sent into the treasury—not a requisition was fully complied with. Loans were the next measure fallen upon: upwards of eighty millions of dollars were wanting, beside the emissions of dollars, forty for one. These things show the impossibility of relying on requisitions. [Here Mr. Randolph enumerated the different delinquencies of different states, and the consequent distresses of Congress.] If the American spirit is to be depended upon, I call him to awake, to see how his Americans have been disgraced: but I have no hopes that things will be



better hereafter. I fully expect things will be as they have been, and that the same derangements will produce similar miscarriages. Will the American spirit produce money or credit, unless we alter our system? Are we not in a contemptible situation—are we not the jest of other nations?

But it is insinuated, by the honorable gentleman, that we want to be a grand, splendid and magnificent people: we wish not to become so: the magnificence of a royal court is not our object. We want government, sir—a government that will have stability, and give us security: for our present government is destitute of the one, and incapable of producing the other. It cannot perhaps, with propriety, be denominated a government—being void of that energy requisite to enforce its sanctions. I wish my country not to be contemptible in the eyes of foreign nations. A well regulated community is always respected. It is the internal situation, the defects of government, that attract foreign contempt—that contempt, sir, is too often followed by subjugation. Advert to the contemptuous manner, in which a shrewd politician speaks of our government. [Here Mr. Randolph quoted a passage from Lord Sheffield, the purport of which was, that Great Britain might engross our trade on her own terms: that the imbecility and inefficacy of our general government were such, that it was impossible we could counteract her policy, however rigid or illiberal towards us, her commercial regulations might be.] Reflect but a moment on our situation. Does it not invite real hostility? The conduct of the British ministry to us, is the natural effect of our unnerved government. Consider the commercial regulations between us and Maryland. Is it not known to gentlemen, that this state and that have been making reprisals on each other, to obviate a repetition of which, in some degree, these regulations have been made? Can we not see from this circumstance, the jealousy, rivalry and hatred, that would subsist between them, in case

this state was out of the union? They are importing states, and importing states will ever be competitors and rivals. Rhode Island and Connecticut have been on the point of war, on the subject of their paper money—Congress did not attempt to interpose. When Massachusetts was distressed by the late insurrection, Congress could not relieve her. Who headed that insurrection? Recollect the facility with which it was raised, and the very little ability of the ring-leader, and you cannot but deplore the extreme debility of our merely nominal government; we are too despicable to be regarded by foreign nations. The defects of the confederation consisted principally in the want of power. It had nominally powers—powers on paper, which it could not use. The power of making peace and war is expressly delegated to Congress; yet the power of granting passports, though within that of making peace and war, was considered by Virginia as belonging to herself. Without adequate powers, vested in Congress, America cannot be respectable in the eyes of other nations. Congress, sir, ought to be fully vested with power to support the union, protect the interest of the United States, maintain their commerce, and defend them from external invasions and insults, and internal insurrections; to maintain justice, and promote harmony and public tranquillity among the states. A government, not vested with these powers, will ever be found unable to make us happy or respectable: how far the confederation is different from such a government, is known to all America. Instead of being able to cherish and protect the states, it has been unable to defend itself against the encroachments made upon it by the states: every one of them has conspired against it—Virginia as much as any. This fact could be proved by reference to actual history. I might quote the observations of an able modern author, (not because he is decorated with the name of author, but because his sentiments are drawn from human nature,) to prove the dangerous impolicy of withholding neces-



sary powers from Congress; but I shall at this time, fatigue the house, as little as possible. What are the powers of Congress? They have full authority to recommend what they please: this recommendatory power reduces them to the condition of poor supplicants. Consider the dignified language of the members of the American Congress—May it please your high mightinesses, of Virginia, to pay your just, proportionate quota of our national debt: we humbly supplicate, that it may please you to comply with your federal duties! We implore, we beg your obedience! Is not this, sir, a fair representation of the powers of Congress? Their operations are of no validity, when counteracted by the states. Their authority to recommend is a mere mockery of government.

But the amendability of the confederation seems to have great weight on the minds of some gentlemen. To what point will the amendments go? What part makes the most important figure? What part deserves to be retained? In it, one body has the legislative, executive and judicial powers: but the want of efficient powers has prevented the dangers naturally consequent on the union of these. Is this union consistent with an augmentation of their power? Will you then amend it, by taking away one of these three powers? Suppose, for instance, you only vested it with the legislative and executive powers, without any control on the judiciary, what must be the result? Are we not taught by reason, experience and governmental history, that tyranny is the natural and certain consequence of uniting these two powers, or the legislative and judicial powers, exclusively, in the same body? If any one denies it, I shall pass by him, as an infidel not to be reclaimed. Wherever any two of these three powers, are vested in one single body, they must, at one time or other, terminate in the destruction of liberty. In the most important cases, the assent of nine states is necessary to pass a law: this is too great a restriction, and whatever good conse-

quences it may, in some cases, produce, yet it will prevent energy in many other cases; it will prevent energy, which is most necessary on some emergencies, even in cases wherein the existence of the community depends on vigor and expedition. It is incompatible with that secrecy, which is the life of execution and dispatch. Did ever thirty or forty men retain a secret? Without secrecy, no government can carry on its operations, on great occasions: this is what gives that superiority in action to the government of one. If any thing were wanting to complete this farce, it would be, that a resolution of the assembly of Virginia, and the other legislatures, should be necessary to confirm and render of any validity, the congressional acts: this would openly discover the debility of the general government to all the world. But, in fact, its imbecility is now nearly the same, as if such acts were formally requisite. An act of the assembly of Virginia, controverting a resolution of Congress, would certainly prevail. I therefore conclude, that the confederation is too defective to deserve correction. Let us take farewell of it, with reverential respect, as an old benefactor. It is gone, whether this house says so, or not. It is gone, sir, by its own weakness.

I am afraid I have tired the patience of this house; but I trust you will pardon me, as I was urged by the importunity of the gentleman, in calling for the reasons of laying the ground work of this plan. It is objected by the honorable gentleman over the way, (Mr. George Mason,) that a republican government is impracticable in an extensive territory, and the extent of the United States is urged, as a reason, for the rejection of this constitution. Let us consider the definition of a republican government, as laid down by a man who is highly esteemed. Montesquieu, so celebrated among politicians, says, "that a republican government is that, in which the body, or only a part of the people, is possessed of the supreme power; a monarchical, that in which a single person governs,



by fixed and established laws; a despotic government, that in which a single person, without law, and without rule, directs every thing, by his own will and caprice." This author has not distinguished a republican government from a monarchy, by the extent of its boundaries, but by the nature of its principles. He, in another place, contradistinguishes it, as a government of laws, in opposition to others, which he denominates a government of men. The empire, or government of laws, according to that phrase, is that, in which the laws are made with the free will of the people; hence then, if laws be made by the assent of the people, the government may be deemed free. When laws are made with integrity, and executed with wisdom, the question is, whether a great extent of country will tend to abridge the liberty of the people. If defensive force be necessary, in proportion to the extent of country, I conceive that, in a judiciously constructed government, be the country ever so extensive, its inhabitants will be proportionably numerous, and able to defend it. Extent of country, in my conception, ought to be no bar to the adoption of a good government. No extent on earth seems to me too great, provided the laws be wisely made and executed. The principles of representation and responsibility, may pervade a large, as well as a small territory: and tyranny is as easily introduced into a small, as into a large district. If it be answered, that some of the most illustrious and distinguished authors, are of a contrary opinion, I reply, that authority has no weight with me, till I am convinced—that not the dignity of names, but the force of reasoning, gains my assent.

I intended to have shown the nature of the powers which ought to have been given to the general government, and the reason of investing it with the power of taxation, but this would require more time than my strength, or the patience of the committee, would now admit of. I shall conclude with a few observations, which come from my heart. I have labored for

the continuance of the union—the rock of our salvation. I believe, that as sure as there is a God in Heaven, our safety, our political happiness and existence, depend on the union of the states; and, that without this union, the people of this and the other states, will undergo the unspeakable calamities, which discord, faction, turbulence, war and bloodshed, have produced in other countries. The American spirit ought to be mixed with American pride—pride to see the union magnificently triumph. Let that glorious pride, which once defied the British thunder, reanimate you again. Let it not be recorded of Americans, that, after having performed the most gallant exploits, after having overcome the most astonishing difficulties, and after having gained the admiration of the world by their incomparable valor and policy, they lost their acquired reputation, their national consequence and happiness, by their own indiscretion. Let no future historian inform posterity, that they wanted wisdom and virtue, to concur in any regular, efficient government. Should any writer, doomed to so disagreeable a task, feel the indignation of an honest historian, he would reprehend and recriminate our folly, with equal severity and justice. Catch the present moment, seize it with avidity and eagerness, for it may be lost, never to be regained. If the union be now lost, I fear it will remain so forever. I believe gentlemen are sincere in their opposition, and actuated by pure motives: but when I maturely weigh the advantages of the union, and dreadful consequences of its dissolution; when I see safety on my right, and destruction on my left; when I behold respectability and happiness acquired by the one, but annihilated by the other, I cannot hesitate to decide in favor of the former. I hope my weakness, from speaking so long, will apologize for my leaving this subject in so mutilated a condition. If a further explanation be desired, I shall take the liberty to enter into it more fully another time.



C. I. p. 138

## SPEECH OF JAMES MADISON,

ON THE EXPEDIENCY OF ADOPTING THE

FEDERAL CONSTITUTION,

DELIVERED IN THE CONVENTION OF VIRGINIA, JUNE, 1788.



MR. CHAIRMAN,

IN what I am about to offer to this assembly, I shall not attempt to make impressions by any ardent professions of zeal for the public welfare: we know that the principles of every man will be, and ought to be judged, not by his professions and declarations, but by his conduct. By that criterion, I wish, in common with every other member, to be judged; and even though it should prove unfavorable to my reputation, yet it is a criterion from which I by no means would depart, nor could if I would. Comparisons have been made between the friends of this constitution, and those who oppose it. Although I disapprove of such comparisons, I trust, that in every thing that regards truth, honor, candor and rectitude of motives, the friends of this system, here, and in other states, are not inferior to its opponents. But professions of attachment to the public good, and comparisons of parties, at all times invidious, ought not to govern or influence us now. We ought, sir, to examine the constitution exclusively on its own merits. We ought to inquire whether it will promote the public happiness; and its aptitude to produce that desirable object, ought to be the exclusive subject of our researches.

In this pursuit, we ought to address our arguments not to the feelings and passions, but to those understandings and judgments which have been selected, by the people of this country, to decide that great question, by a calm and rational investigation. I hope that gentlemen, in displaying their abilities on this occasion, will, instead of giving opinions and making assertions, condescend to prove and demonstrate, by fair and regular discussion. It gives me pain to hear gentlemen continually distorting the natural construction of language. Assuredly, it is sufficient if any human production can stand a fair discussion. Before I proceed to make some additions to the reasons which have been adduced by my honorable friend over the way, I must take the liberty to make some observations on what was said by another gentleman, (Mr. Henry.) He told us, that this constitution ought to be rejected, because, in his opinion, it endangered the public liberty, in many instances. Give me leave to make one answer to that observation—let the dangers with which this system is supposed to be replete, be clearly pointed out. If any dangerous and unnecessary powers be given to the general legislature, let them be plainly demonstrated, and let us not rest satisfied with general assertions of dangers, without proof—without examination. If powers be necessary, apparent danger is not a sufficient reason against conceding them. He has suggested, that licentiousness has seldom produced the loss of liberty; but that the tyranny of rulers has almost always effected it. Since the general civilization of mankind, I believe there are more instances of the abridgment of the freedom of the people, by gradual and silent encroachments of those in power, than by violent and sudden usurpations: but on a candid examination of history, we shall find that turbulence, violence and abuse of power, by the majority trampling on the rights of the minority, have produced factions and commotions, which, in republics, have more frequently than any other cause.



produced despotism. If we go over the whole history of ancient and modern republics, we shall find their destruction to have generally resulted from those causes. If we consider the peculiar situation of the United States, and go to the sources of that diversity of sentiment which pervades its inhabitants, we shall find great danger to fear, that the same causes may terminate here, in the same fatal effects, which they produced in those republics. This danger ought to be wisely guarded against. In the progress of this discussion, it will perhaps appear, that the only possible remedy for those evils, and the only certain means of preserving and protecting the principles of republicanism, will be found in that very system which is now exclaimed against as the parent of oppression. I must confess, that I have not been able to find his usual consistency, in the gentleman's arguments on this occasion. He informs us that the people of this country are at perfect repose; that every man enjoys the fruits of his labor, peaceably and securely, and that every thing is in perfect tranquillity and safety. I wish sincerely, sir, this were true. But if this be really their situation, why has every state acknowledged the contrary? Why were deputies from all the states sent to the general convention? Why have complaints of national and individual distresses been echoed and re-echoed throughout the continent? Why has our general government been so shamefully disgraced, and our constitution violated? Wherefore have laws been made to authorize a change, and wherefore are we now assembled here? A federal government is formed for the protection of its individual members. Ours was itself attacked with impunity. Its authority has been boldly disobeyed and openly despised. I think I perceive a glaring inconsistency in another of his arguments. He complains of this constitution, because it requires the consent of at least three fourths of the states to introduce amendments, which shall be necessary for the

happiness of the people. The assent of so many, he considers as too great an obstacle to the admission of salutary amendments, which he strongly insists, ought to be at the will of a bare majority, and we hear this argument, at the very moment we are called upon to assign reasons for proposing a constitution, which puts it in the power of nine states to abolish the present inadequate, unsafe and pernicious confederation! In the first case, he asserts, that a majority ought to have the power of altering the government, when found to be inadequate to the security of public happiness. In the last case, he affirms, that even three fourths of the community have not a right to alter a government, which experience has proved to be subversive of national felicity; nay, that the most necessary and urgent alterations cannot be made without the absolute unanimity of all the states. Does not the thirteenth article of the confederation expressly require, that no alteration shall be made without the unanimous consent of all the states? Can any thing in theory be more perniciously improvident and injudicious than this submission of the will of the majority to the most trifling minority? Have not experience and practice actually manifested this theoretical inconvenience to be extremely impolitic? Let me mention one fact, which I conceive must carry conviction to the mind of any one—the smallest state in the union has obstructed every attempt to reform the government; that little member has repeatedly disobeyed and counteracted the general authority; nay, has even supplied the enemies of its country with provisions. Twelve states had agreed to certain improvements which were proposed, being thought absolutely necessary to preserve the existence of the general government; but as these improvements, though really indispensable, could not, by the confederation, be introduced into it without the consent of every state, the refractory dissent of that little state prevented their adoption. The inconveniences resulting from this requisition, of unanimous concur-



rence in alterations of the confederation, must be known to every member in this convention; it is therefore needless to remind them of them. Is it not self-evident, that a trifling minority ought not to bind the majority? Would not foreign influence be exerted with facility over a small minority? Would the honorable gentleman agree to continue the most radical defects in the old system, because the petty state of Rhode Island would not agree to remove them?

He next objects to the exclusive legislation over the district where the seat of the government may be fixed. Would he submit that the representatives of this state should carry on their deliberations under the control of any one member of the union? If any state had the power of legislation over the place where Congress should fix the general government, it would impair the dignity, and hazard the safety of Congress. If the safety of the union were under the control of any particular state, would not foreign corruption probably prevail in such a state, to induce it to exert its controlling influence over the members of the general government? Gentlemen cannot have forgotten the disgraceful insult which Congress received some years ago. And, sir, when we also reflect, that the previous cession of particular states is necessary, before Congress can legislate exclusively any where, we must, instead of being alarmed at this part, heartily approve of it.

But the honorable member sees great danger in the provision concerning the militia. Now, sir, this I conceive to be an additional security to our liberties, without diminishing the power of the states, in any considerable degree; it appears to me so highly expedient, that I should imagine it would have found advocates even in the warmest friends of the present system. The authority of training the militia, and appointing the officers, is reserved to the states. But Congress ought to have the power of establishing a uniform system of discipline throughout the states; and to provide for the execution of the laws, suppress

insurrections, and repel invasions. These are the only cases wherein they can interfere with the militia; and the obvious necessity of their having power over them in these cases, must flash conviction on any reflecting mind. Without uniformity of discipline, military bodies would be incapable of action: without a general controlling power to call forth the strength of the union, for the purpose of repelling invasions, the country might be overrun, and conquered by foreign enemies. Without such a power to suppress insurrections, our liberties might be destroyed by intestine faction, and domestic tyranny be established.

The honorable member then told us, that there was no instance of power once transferred, being voluntarily renounced. Not to produce European examples, which may probably be done before the rising of this convention, have we not seen already, in seven states, (and probably in an eighth state,) legislatures surrendering some of the most important powers they possessed? But, sir, by this government, powers are not given to any particular set of men—they are in the hands of the people—delegated to their representatives chosen for short terms;—to representatives at all times responsible to the people, and whose situation is perfectly similar to their own:—as long as this is the case, we have no danger to apprehend. When the gentleman called to our recollection the usual effects of the concession of powers, and imputed the loss of liberty generally to open tyranny, I wish he had gone something further. Upon a review of history, he would have found, that the loss of liberty very often resulted from factions and divisions; from local considerations, which eternally lead to quarrels: he would have found internal dissensions to have more frequently demolished civil liberty, than a tenacious disposition in rulers to retain any stipulated powers.

[Here Mr. Madison enumerated the various means whereby nations had lost their liberties.]

The power of raising and supporting armies is ex-



claimed against, as dangerous and unnecessary. I sincerely wish, sir, that there were no necessity for vesting this power in the general government. But suppose a foreign nation should declare war against the United States, must not the general legislature have the power of defending the United States? Ought it to be known to foreign nations, that the general government of the United States of America has no power to raise or support an army, even in the utmost danger, when attacked by external enemies? Would not their knowledge of such a circumstance stimulate them to fall upon us? If, sir, Congress be not invested with this power, any great nation, prompted by ambition or avarice, will be invited by our weakness to attack us; and such an attack, by disciplined veterans, would certainly be attended with success, when only opposed by irregular, undisciplined militia. Whoever considers the peculiar situation of this country, the multiplicity of its excellent inlets and harbors, and the uncommon facility of attacking it, however much he may regret the necessity of such a power, cannot hesitate a moment in granting it. One fact may elucidate this argument. In the course of the late war, when the weak parts of the union were exposed, and many states were placed in the most deplorable situation by the enemy's ravages, the assistance of foreign nations was thought so urgently necessary for our protection, that the relinquishment of territorial advantages was not deemed too great a sacrifice for the acquisition of one ally. This expedient was admitted with great reluctance even by those states who expected most advantages from it. The crisis, however, at length arrived, when it was judged necessary for the salvation of this country, to make certain cessions to Spain; whether wisely, or otherwise, is not for me to say; but the fact was, that instructions were sent to our representative at the court of Spain, to empower him to enter into negotiations for that purpose. How it terminated is well known. This fact shows

the extremities to which nations will recur in cases of imminent danger, and demonstrates the necessity of making ourselves more respectable. The necessity of making dangerous cessions, and of applying to foreign aid, ought to be provided against.

The honorable member then told us, that there are heart-burnings in the states that have assented to the new constitution, and that Virginia may, if she does not come into the measure, continue in amicable confederacy with those adopting states. I wish, as seldom as possible, to contradict the assertions of gentlemen; but I can venture to affirm, without danger of being detected in an error, that there is the most conclusive evidence of the satisfaction of those states being every day augmented, and that, in that state where it was adopted only by a majority of nineteen, there is not, at this time, one fifth of the people dissatisfied. There are some reasons which induce us to conclude, that the grounds of proselytism extend every where; its principles begin to be better understood; and the inflammatory violence wherewith it was opposed by designing, illiberal and unthinking minds, begins to subside. I will not enumerate the causes from which, in my conception, the heart-burnings of a majority of its opposers have originated. Suffice it to say, that in all cases, they were founded on a misconception of the nature and tendency of the new government. Had it been candidly examined and fairly discussed, I believe, sir, that but a very inconsiderable minority of the people of the United States would at any time have opposed it. With respect to the Swiss confederacy, which the honorable gentleman has proposed for our example, as far as historical authority may be relied upon, we shall find their government quite unworthy of our imitation. I am sure if the honorable member had sufficiently considered their history and government, he never would have quoted their example in this place. He would have found, that instead of respecting the rights of mankind, their government, (at



least that of several of their cantons,) is one of the vilest aristocracies that ever was instituted. The peasants of some of their cantons are more oppressed and degraded than the subjects of any monarch of Europe; nay, almost as much so, as those of any eastern despot. It is a novelty in politics, that from the worst of systems, the happiest consequences should arise. For it is their aristocratical rigor, and the peculiarity of their situation, that have so long supported their union. Without the closest compressment, dismemberment would unquestionably ensue, and their powerful, ambitious neighbors, would immediately avail themselves of their least jarrings. As we are not circumstanced like them, however, no conclusive precedent can be drawn from their situation. I trust, the gentleman does not carry his idea so far as to recommend a separation from the adopting states. This government may secure our happiness; this is at least as probable as that it shall be oppressive. If eight states have, from a persuasion of its policy and utility, adopted it, shall Virginia shrink from it, without a full conviction of its danger and inutility? I hope she will never shrink from any duty: I trust she will not determine without the most serious reflection and deliberation.

I confess to you, sir, that were uniformity of religion to be introduced by this system, it would, in my opinion, be ineligible; but I have no reason to conclude, that uniformity of government will produce that of religion. To the great honor of America, that right is perfectly free and unshackled among us. The government has no jurisdiction over it; the least reflection will convince us, there is no danger to be feared on that ground.

But we are flattered with the probability of obtaining previous amendments. This point calls for the most serious care of the convention. If amendments are to be proposed by one state, other states have the same right, and will also propose alterations. These

cannot but be dissimilar, and opposite in their nature. I beg leave to remark, that the governments of the different states are in many respects dissimilar in their structure; their legislative bodies are not similar; their executives are still more different. In several of the states, the first magistrate is elected by the people at large; in others, by joint ballot of the members of both branches of the legislature; and in others again, in other different manners. This dissimilarity has occasioned a diversity of opinion on the theory of government, which will, without many reciprocal concessions, render a concurrence impossible. Although the appointment of an executive magistrate has not been thought destructive to the principles of democracy, in any of the states, yet, in the course of the debate, we find objections made to the federal executive: it is urged that the president will degenerate into a tyrant. I intended, in compliance with the call of the honorable member, to explain the reasons of proposing this constitution, and develop its principles; but I shall postpone my remarks, till we hear the supplement which he has informed us, he means to add to what he has already offered.

Give me leave to say something of the nature of the government, and to show that it is perfectly safe and just, to vest it with the power of taxation. There are a number of opinions; but the principal question is, whether it be a federal or a consolidated government. In order to judge properly of the question before us, we must consider it minutely, in its principal parts. I myself conceive, that it is of a mixed nature: it is, in a manner, unprecedented. We cannot find one express prototype in the experience of the world: it stands by itself. In some respects, it is a government of a federal nature: in others, it is of a consolidated nature. Even if we attend to the manner in which the constitution is investigated, ratified and made the act of the people of America, I can say, notwithstanding what the honorable gentleman has alledged, that



this government is not completely consolidated; nor is it entirely federal. Who are the parties to it? The people—not the people as composing one great body, but the people as composing thirteen sovereignties. Were it, as the gentleman asserts, a consolidated government, the assent of a majority of the people would be sufficient for its establishment, and as a majority have adopted it already, the remaining states would be bound by the act of the majority, even if they unanimously reprobated it. Were it such a government as is suggested, it would be now binding on the people of this state, without having had the privilege of deliberating upon it; but, sir, no state is bound by it, as it is, without its own consent. Should all the states adopt it, it will be then a government established by the thirteen states of America, not through the intervention of the legislatures, but by the people at large. In this particular respect, the distinction between the existing and proposed governments, is very material. The existing system has been derived from the dependant, derivative authority of the legislatures of the states; whereas this is derived from the superior power of the people. If we look at the manner in which alterations are to be made in it, the same idea is in some degree attended to. By the new system, a majority of the states cannot introduce amendments; nor are all the states required for that purpose; three fourths of them must concur in alterations; in this there is a departure from the federal idea. The members to the national house of representatives are to be chosen by the people at large, in proportion to the numbers in the respective districts. When we come to the senate, its members are elected by the states in their equal and political capacity; but had the government been completely consolidated, the senate would have been chosen by the people, in their individual capacity, in the same manner as the members of the other house. Thus it is of a complicated nature, and this complication, I trust, will be found to

exclude the evils of absolute consolidation, as well as of a mere confederacy. If Virginia were separated from all the states, her power and authority would extend to all cases; in like manner, were all powers vested in the general government, it would be a consolidated government: but the powers of the federal government are enumerated; it can only operate in certain cases: it has legislative powers on defined and limited objects, beyond which it cannot extend its jurisdiction.

But the honorable member has satirized, with peculiar acrimony, the powers given to the general government by this constitution. I conceive that the first question on this subject is, whether these powers be necessary; if they be, we are reduced to the dilemma of either submitting to the inconvenience, or losing the union. Let us consider the most important of these reprobated powers; that of direct taxation is most generally objected to. With respect to the exigencies of government, there is no question but the most easy mode of providing for them will be adopted. When, therefore, direct taxes are not necessary, they will not be recurred to. It can be of little advantage to those in power, to raise money in a manner oppressive to the people. To consult the conveniences of the people, will cost them nothing, and in many respects will be advantageous to them. Direct taxes will only be recurred to for great purposes. What has brought on other nations those immense debts, under the pressure of which many of them labor? Not the expenses of their governments, but war. If this country should be engaged in war, (and I conceive we ought to provide for the possibility of such a case,) how would it be carried on? By the usual means provided from year to year? As our imports will be necessary for the expenses of government, and other common exigencies, how are we to carry on the means of defence? How is it possible a war could be supported without money or credit? And would it be possible for government



to have credit, without having the power of raising money? No, it would be impossible for any government, in such a case, to defend itself. Then, I say, sir, that it is necessary to establish funds for extraordinary exigencies, and give this power to the general government; for the utter inutility of previous requisitions on the states is too well known. Would it be possible for those countries, whose finances and revenues are carried to the highest perfection, to carry on the operations of government on great emergencies, such as the maintenance of a war, without an uncontrolled power of raising money? Has it not been necessary for Great Britain, notwithstanding the facility of the collection of her taxes, to have recourse very often to this and other extraordinary methods of procuring money? Would not her public credit have been ruined, if it was known that her power to raise money was limited? Has not France been obliged, on great occasions, to recur to unusual means, in order to raise funds? It has been the case in many countries, and no government can exist, unless its powers extend to make provisions for every contingency. If we were actually attacked by a powerful nation, and our general government had not the power of raising money, but depended solely on requisitions, our condition would be truly deplorable: if the revenues of this commonwealth were to depend on twenty distinct authorities, it would be impossible for it to carry on its operations. This must be obvious to every member here: I think, therefore, that it is necessary for the preservation of the union, that this power should be given to the general government.

But it is urged, that its consolidated nature, joined to the power of direct taxation, will give it a tendency to destroy all subordinate authority; that its increasing influence will speedily enable it to absorb the state governments. I cannot bring myself to think that this will be the case. If the general government were wholly independent of the governments of the particu-

lar states, then indeed, usurpation might be expected to the fullest extent: but, sir, on whom does this general government depend? It derives its authority from these governments, and from the same sources from which their authority is derived. The members of the federal government are taken from the same men from whom those of the state legislatures are taken. If we consider the mode in which the federal representatives will be chosen, we shall be convinced, that the general will never destroy the individual governments; and this conviction must be strengthened by an attention to the construction of the senate. The representatives will be chosen, probably under the influence of the members of the state legislatures: but there is not the least probability that the election of the latter will be influenced by the former. One hundred and sixty members representing this commonwealth in one branch of the legislature, are drawn from the people at large, and must ever possess more influence than the few men who will be elected to the general legislature. Those who wish to become federal representatives, must depend on their credit with that class of men who will be the most popular in their counties, who generally represent the people in the state governments: they can, therefore, never succeed in any measure contrary to the wishes of those on whom they depend. So that on the whole, it is almost certain, that the deliberations of the members of the federal house of representatives, will be directed to the interests of the people of America. As to the other branch, the senators will be appointed by the legislatures, and though elected for six years, I do not conceive they will so soon forget the source from whence they derive their political existence. This election of one branch of the federal, by the state legislatures, secures an absolute dependence of the former on the latter. The biennial exclusion of one third, will lessen the facility of a combination, and preclude all likelihood of intrigues. I appeal to our past experience, whether they will attend to the inter-



ests of their constituent states. Have not those gentlemen who have been honored with seats in Congress, often signalized themselves by their attachment to their states? Sir, I pledge myself that this government will answer the expectations of its friends, and foil the apprehensions of its enemies. I am persuaded that the patriotism of the people will continue, and be a sufficient guard to their liberties, and that the tendency of the constitution will be, that the state governments will counteract the general interest, and ultimately prevail. The number of the representatives is yet sufficient for our safety, and will gradually increase; and if we consider their different sources of information, the number will not appear too small.

Sir, that part of the proposed constitution, which gives the general government the power of laying and collecting taxes, is indispensable and essential to the existence of any efficient, or well organized system of government: if we consult reason, and be ruled by its dictates, we shall find its justification there: if we review the experience we have had, or contemplate the history of nations, there too we shall find ample reasons to prove its expediency. It would be preposterous to depend for necessary supplies on a body which is fully possessed of the power of withholding them. If a government depends on other governments for its revenues; if it must depend on the voluntary contributions of its members, its existence must be precarious. A government that relies on thirteen independent sovereignties, for the means of its existence, is a solecism in theory, and a mere nullity in practice. Is it consistent with reason, that such a government can promote the happiness of any people? It is subversive of every principle of sound policy, to trust the safety of a community with a government, totally destitute of the means of protecting itself or its members. Can Congress, after the repeated, unequivocal proofs it has experienced of the utter inutility and inefficacy of requisitions, reasonably expect, that they would be hereafter

effectual or productive? Will not the same local interests, and other causes, militate against a compliance? Whoever hopes the contrary must forever be disappointed. The effect, sir, cannot be changed without a removal of the cause. Let each county in this commonwealth be supposed free and independent: let your revenues depend on requisitions of proportionate quotas from them: let application be made to them repeatedly, and then ask yourself, is it to be presumed that they would comply, or that an adequate collection could be made from partial compliances? It is now difficult to collect the taxes from them: how much would that difficulty be enhanced, were you to depend solely on their generosity? I appeal to the reason of every gentleman here, and to his candor to say whether he is not persuaded, that the present confederation is as feeble as the government of Virginia would be in that case: to the same reason I appeal, whether it be compatible with prudence to continue a government of such manifest and palpable weakness and inefficiency.

If we recur to history, and review the annals of mankind, I undertake to say, that no instance can be produced by the most learned man, of any confederate government, that will justify a continuation of the present system; or that will not, on the contrary, demonstrate the necessity of this change, and of substituting to the present pernicious and fatal plan, the system now under consideration, or one equally energetic. The uniform conclusion drawn from a review of ancient and modern confederacies, is, that instead of promoting the public happiness, or securing public tranquillity, they have, in every instance, been productive of anarchy and confusion—ineffectual for the preservation of harmony, and a prey to their own dissensions and foreign invasions.

The Amphictyonic league resembled our confederation in its nominal powers: it was possessed of rather more efficiency. The component states retained their



sovereignty, and enjoyed an equality of suffrage in the federal council. But though its powers were more considerable in many respects than those of our present system, yet it had the same radical defect. Its powers were exercised over its individual members in their political capacities. To this capital defect it owed its disorders, and final destruction. It was compelled to recur to the sanguinary coercion of war to enforce its decrees. The struggles consequent on a refusal to obey a decree, and an attempt to enforce it, produced the necessity of applying to foreign assistance: by complying with that application, and employing his wiles and intrigues, Philip of Macedon acquired sufficient influence to become a member of the league; and that artful and insidious prince soon after became master of their liberties.

The Achæan league, though better constructed than the Amphictyonic, in material respects, was continually agitated with domestic dissensions, and driven to the necessity of calling in foreign aid; this also eventuated in the demolition of their confederacy. Had they been more closely united, their people would have been happier; and their united wisdom and strength would not only have rendered unnecessary all foreign interpositions in their affairs, but would have enabled them to repel the attack of any enemy. If we descend to more modern examples, we shall find the same evils resulting from the same sources.

The Germanic system is neither adequate to the external defence, or internal felicity of the people; the doctrine of quotas and requisitions flourishes here. Without energy—without stability—the empire is a nerveless body. The most furious conflicts, and the most implacable animosities between its members, strikingly distinguish its history. Concert and co-operation are incompatible with such an injudiciously constructed system.

The republic of the Swiss is sometimes instanced for its stability; but even there, dissensions and wars of

a bloody nature, have been frequently seen between the cantons. A peculiar coincidence of circumstances contributes to the continuance of their political connexion. Their feeble association owes its existence to their singular situation. There is a schism this moment in their confederacy, which, without the necessity of uniting for their external defence, would immediately produce its dissolution.

The confederate government of Holland is a further confirmation of the characteristic imbecility of such governments. From the history of this government we might derive lessons of the most important utility.

[Here Mr. Madison quoted sundry passages from De Witt, respecting the people of Holland, and the war which they had so long supported against the Spanish monarch; showing the impolitic and injudicious structure of their confederacy; that it was entirely destitute of energy, because their revenues depended chiefly on requisitions; that during that long war, the provinces of Guelderland and Overysseel had not paid their respective quotas, but had evaded altogether their payments; in consequence of which, two sevenths of the resources of the community had never been brought into action; nor contributed in the least towards the prosecution of the war: that the fear of pressing danger stimulated Holland and the other provinces to pay all the charges of the war: that those two provinces had continued their delinquencies; that the province of Holland alone paid more than all the rest; still those provinces which paid up their proportional shares, claimed from the failing states the amounts of their arrearages; that the most fatal consequences had nearly resulted from the difficulty of adjusting those claims, and from the extreme aversion of the delinquent states to discharge even their most solemn engagements: that there are existing controversies between the provinces on this account at present; and to add to the evils consequent upon requisitions, that unanimity and the revision and sanc-



tion of their constituents, were necessary to give validity to the decisions of the states general. He then proceeded,]—Sir, these radical defects in their confederacy must have dissolved their association long ago, were it not for their peculiar position—circumscribed in a narrow territory; surrounded by the most powerful nations in the world; possessing peculiar advantages from their situation; an extensive navigation and a powerful navy—advantages which it was clearly the interest of those nations to diminish or deprive them of. Their late unhappy dissensions were manifestly produced by the vices of their system. We may derive much benefit from the experience of that unhappy country. Governments, destitute of energy, will always produce anarchy. These facts are worthy the most serious consideration of every gentleman here. Does not the history of these confederacies coincide with the lessons drawn from our own experience? I most earnestly pray that America may have sufficient wisdom to avail herself of the instructive information she may derive from a contemplation of the sources of their misfortunes, and that she may escape a similar fate, by avoiding the causes from which their infelicity sprung. If the general government is to depend on the voluntary contributions of the states for its support, dismemberment of the United States may be the consequence. In cases of imminent danger, those states alone, more immediately exposed to it, would exert themselves; those remote from it, would be too supine to interest themselves warmly in the fate of those whose distresses they did not immediately perceive. The general government ought therefore to be armed with power to defend the whole union.

Must we not suppose, that those parts of America which are most exposed, will first be the scenes of war? Those nations, whose interest is incompatible with an extension of our power, and who are jealous of our resources to become powerful and wealthy,

must naturally be inclined to exert every means to prevent our becoming formidable. Will they not be impelled to attack the most exposed parts of the union? Will not their knowledge of the weakness of our government stimulate them the more readily to such an attack? Those parts to which relief can be afforded with most difficulty, are the extremities of the country, and will be the first objects of our enemies. The general government, having no resources beyond what are adequate to its existing necessities, will not be able to afford any effectual succor to those parts which may be invaded.

In such a case, America must perceive the danger and folly of withholding from the union, a power sufficient to protect the whole territory of the United States. Such an attack is far from improbable, and if it be actually made, it is difficult to conceive a possibility of escaping the catastrophe of a dismemberment. On this subject we may receive an estimable and instructive lesson, from an American confederacy; from an example which has happened in our country, and which applies to us with peculiar force, being most analogous to our situation. I mean that species of association or union which subsisted in New England. The colonies of Massachusetts, Bristol, Connecticut and New Hampshire, were confederated together.

The object of that confederacy was primarily to defend themselves against the inroads and depredations of the Indians. They had a common council, consisting of deputies from each party, with an equality of suffrage in their deliberations. The general expenditures and charges were to be adequately defrayed. Its powers were very similar to those of the confederation. Its history proves clearly, that a government, founded on such principles, must ever disappoint the hopes of those who expect its operations to be conducive to public happiness.

There are facts on record to prove, that instead of



answering the end of its institution, or the expectation of its framers, it was violated with impunity; and only regarded when it coincided perfectly with the views and immediate interests of the respective parties.

The strongest member of the union availed itself of its circumstances to infringe their confederacy. Massachusetts refused to pay its quotas. In the war between England and Holland, it was found particularly necessary to make more exertions for the protection of that country.

Massachusetts being then more powerful and less exposed than the other colonies, refused its contributions to the general defence. In consequence of this, the common council remonstrated against the council of Massachusetts. This altercation terminated in the dissolution of their union. From this brief account of a system perfectly resembling our present one, we may easily divine the inevitable consequences of a longer adherence to the latter.

[Mr. Madison then recapitulated many instances of the prevalent persuasion of the wisest patriots of the states, that the safety of all America depended on union; and that the government of the United States must be possessed of an adequate degree of energy, or that otherwise their connexion could not be justly denominated an union. He likewise enumerated the expedients that had been attempted by the people of America to form an intimate association, from the meeting at New York in the year 1754, downwards: that their sentiments on this subject had been uniform, both in their colonial and independent conditions; and that a variety of causes had hitherto prevented the adoption of an adequate system. He then continued thus,]

If we take experience for our guide, we shall find still more instructive direction on this subject. The weakness of the existing articles of the union, showed itself during the war. It has manifested itself since the peace, to such a degree as can leave no doubt in any rational,

intelligent and unbiassed mind, of the necessity of an alteration: nay, this necessity is obvious to all America; it has forced itself on the minds of the people. The committee has been informed, that the confederation was not completed till the year 1781, when a great portion of the war was ended; consequently no part of the merit of the antecedent operations of the war could justly be attributed to that system. Its debility was perceived almost as soon as it was put in operation. A recapitulation of the proofs which have been experienced of its inefficacy, is unnecessary. It is most notorious, that feebleness universally marked its character. Shall we be safe in another war in the same situation? That instrument required the voluntary contributions of the states, and thereby sacrificed some of our best privileges. The most intolerable and unwarrantable oppressions were committed on the people during the late war. The gross enormity of those oppressions might have produced the most serious consequences, were it not for the spirit of liberty, which preponderated against every consideration.

A scene of injustice, partiality and oppression, may bring heavenly vengeance on any people. We are now by our sufferings, expiating the crimes of the otherwise glorious revolution. Is it not known to every member of this committee, that the great principles of a free government were reversed through the whole progress of that scene? Was not every state harassed? Was not every individual oppressed and subjected to repeated distresses? Was this right? Was it a proper form of government, that warranted, authorized, or overlooked, the most wanton violations of property? Had the government been vested with complete power to procure a regular and adequate supply of revenue, those oppressive measures would have been unnecessary. But, sir, can it be supposed that a repetition of such measures would ever be acquiesced in? Can a government, that stands in need of such measures, secure the liberty, or promote the happi-



ness or glory of any country? If we do not change this system, consequences must ensue that gentlemen do not now apprehend. If other testimony were necessary, I might appeal to that which I am sure is very weighty, but which I mention with reluctance. At the conclusion of the war, that man who had the most extensive acquaintance with the nature of the country, who well understood its interests, and who had given the most unequivocal and most brilliant proofs of his attachment to its welfare—when he laid down his arms, wherewith he had so nobly and successfully defended his country, publicly testified his disapprobation of the present system, and suggested that some alteration was necessary to render it adequate to the security of our happiness. I did not introduce that great name to bias any gentleman here. Much as I admire and revere the man, I consider these members as not to be actuated by the influence of any man; but I introduced him as a respectable witness to prove that the articles of the confederation were inadequate, and that we must resort to something else. His modesty did not point out what ought to be done, but said, that some great change was necessary. But, sir, testimony, if wished for, may be found in abundance, and numerous conclusive reasons may be urged for this change. Experience daily produced such irresistible proofs of the defects of that system, that this commonwealth was induced to exert her influence to meliorate it: she began that noble work, in which I hope she will persist: she proposed to revise it; her proposition met with the concurrence, which that of a respectable party will always meet. I am sure if demonstration were necessary on the part of this commonwealth, reasons have been abundantly heard in the course of this debate, manifold and cogent enough, not only to operate conviction, but to disgust an attentive hearer. Recollect the resolution of the year 1784. It was then found that the whole burden of the union was sustained by a few states. This state was likely to be saddled with

a very disproportionate share. That expedient was proposed to obviate this inconvenience, which has been placed in its true light. It has been painted in sufficient horrors by the honorable gentleman who spoke last.

I agree with the honorable gentleman, (Mr. Henry,) that national splendor and glory are not our objects: but does he distinguish between what will render us secure and happy at home, and what will render us respectable abroad? If we be free and happy at home, we cannot fail to be respectable abroad.

The confederation is so notoriously feeble, that foreign nations are unwilling to form any treaties with us; they are apprized that our general government cannot perform any of its engagements: but, that they may be violated, at pleasure, by any of the states. Our violation of treaties already entered into, proves this truth unequivocally. No nation will therefore make any stipulations with Congress, conceding any advantages of importance to us; they will be the more averse to entering into engagements with us, as the imbecility of our government enables them to derive many advantages from our trade, without granting us any return. Were this country united by proper bands, in addition to other great advantages, we could form very beneficial treaties with foreign states. But this can never happen without a change in our system. Were we not laughed at by the minister of that nation, from which we may be able yet to extort some of the most salutary measures for this country? Were we not told that it was necessary to temporize till our government acquired consistency? Will any nation relinquish national advantages to us? You will be greatly disappointed, if you expect any such good effects from this contemptible system. Let us recollect our conduct to that country from which we have received the most friendly aid. How have we dealt with that benevolent ally—France? Have we complied with our most sacred obligations to that nation? Have we



paid the interest punctually from year to year? Is not the interest accumulating, while not a shilling is discharged of the principal? The magnanimity and forbearance of that friendly monarch are so great, that he has called upon us for his claims, even in his own distress and necessity. This, sir, is an additional motive to increase our exertions. At this moment of time, a very considerable amount is due from us to that country and to others. [Here Mr. Madison mentioned the amount of the debts due to different foreign nations.] We have been obliged to borrow money, even to pay the interest of our debts. This is a ruinous and most disgraceful expedient. Is this a situation on which America can rely for security and happiness? How are we to extricate ourselves? The honorable member tells us, we might rely on the punctuality and friendship of the states, and that they will discharge their quotas for the future; but, sir, the contributions of the states have been found inadequate from the beginning, and are every day diminishing instead of increasing. From the month of June, 1787, till June, 1788, they have only paid two hundred seventy six thousand six hundred and forty one dollars into the federal treasury for the purposes of supporting the national government, and discharging the interest of the national debts: a sum so very insufficient, that it must greatly alarm the friends of their country. Suggestions and strong assertions dissipate before these facts.

Sir, the subject of direct taxation is perhaps one of the most important that can engage our attention, or that can be involved in the discussion of this great and momentous question. If it be to be judged by the comments made upon it, by the opposers and favorers of the proposed system, it requires a most clear and critical investigation. The objections against the exercise of this power by the general government, as far as I am able to comprehend them, are founded upon the supposition of its being unnecessary, impracticable, unsafe and accumulative of expense. I shall therefore

consider, first, how far it may be necessary; secondly, how far it may be practicable; thirdly, how far it may be safe, as well with respect to the public liberty at large, as to the state legislatures; and fourthly, with respect to economy.

First then, is it necessary? I must acknowledge that I concur in opinion with those gentlemen who told you, that this branch of revenue was essential to the salvation of the union. It appears to me necessary, in order to secure that punctuality which is requisite in revenue matters. Without punctuality individuals will refuse it that confidence, without which it cannot get resources. I beg gentlemen to consider the situation of this country, if unhappily the government were to be deprived of this power. Let us suppose for a moment that one of those great nations that may be unfriendly to us, should take advantage of our weakness, which they will be more ready to do when they know the want of this resource in our government, and should attack us, what forces could we oppose to it? Could we find safety in such forces as we could call out? Could we call forth a sufficient number, either by drafts, or in any other way, to repel a powerful enemy? The inability of the government to raise and support regular troops, would compel us to depend on militia. It would then be necessary to give this power to the government, or run the risk of national annihilation. It is my firm belief, that if a hostile attack were made this moment on the United States, it would at once flash conviction on the minds of the citizens, and show them, to their deep regret, the necessity of vesting the government with this power, which alone can enable it to protect the community. I do not wish to frighten the members of this convention into a concession of this power, but to bring to their minds those considerations which demonstrate its necessity. If we were secured from the possibility, or the probability of danger, it might be unnecessary. I shall not review that



concourse of dangers which may probably arise at remote periods of futurity, nor all those which we have immediately to apprehend; for this would lead me beyond the bounds which I have prescribed to myself. But I will mention one single consideration, drawn from fact itself. I hope to have your attention.

By the treaty between the United States and his most christian majesty, among other things it is stipulated, that the great principle on which the armed neutrality in Europe was founded, should prevail in case of future wars. The principle is this, that free ships shall make free goods, and that vessels and goods shall be both free from condemnation. Great Britain did not recognize it. While all Europe was against her, she held out without acceding to it. It has been considered for some time past, that the flames of war, already kindled, would spread, and that France and England were likely to draw those swords which were so recently put up. This is judged probable. We should not be surprised, in a short time, if we found ourselves as a neutral nation—France being on one side, and Great Britain on the other. Then, what would be the situation of America? She is remote from Europe, and ought not to engage in her politics or wars. The American vessels, if they can do it with advantage, may carry on the commerce of the contending nations. It is a source of wealth which we ought not to deny to our citizens. But, sir, is there not infinite danger, that in despite of all our caution, we shall be drawn into the war? If American vessels have French property on board, Great Britain will seize them. By this means, we shall be obliged to relinquish the advantage of a neutral nation, or be engaged in a war. A neutral nation ought to be respectable, or else it will be insulted and attacked. America, in her present impotent situation, would run the risk of being drawn in, as a party in the war, and lose the advantage of being neutral. Should it happen, that the British fleet should be superior, have we not

reason to conclude, from the spirit displayed by that nation to us and to all the world, that we should be insulted in our own ports, and our vessels seized? But if we be in a respectable situation; if it be known that our government can command the whole resources of the union, we shall be suffered to enjoy the great advantages of carrying on the commerce of the nations at war; for none of them would be willing to add us to the number of their enemies. I shall say no more on this point, there being others which merit your consideration.

The expedient, proposed by the gentlemen opposed to this clause, is, that requisitions shall be made, and if not complied with, in a certain time, that then taxation shall be recurred to. I am clearly convinced, that whenever requisitions shall be made, they will disappoint those who put their trust in them. One reason to prevent the concurrent exertions of all the states, will arise from the suspicion, in some states, of delinquency in others. States will be governed by the motives that actuate individuals.

When a tax law is in operation, in a particular state, every citizen, if he knows of the energy of the laws to enforce payment, and that every other citizen is performing his duty, will cheerfully discharge his duty; but were it known, that the citizens of one district were not performing their duty, and that it was left to the policy of the government to make them come up with it, the citizens of the other districts would be very supine and careless in making provisions for payment. Our own experience makes the illustration more natural. If requisitions be made on thirteen different states, when one deliberates on the subject, she will know that all the rest will deliberate upon it also. This, sir, has been a principal cause of the inefficacy of requisitions heretofore, and will hereafter produce the same evil. If the legislatures are to deliberate on this subject, (and the honorable gentleman opposed to this clause, thinks their deliberation necessary,) is it not



presumable, that they will consider peculiar local circumstances? In the general council, on the contrary, the sense of all America will be drawn to a single point. The collective interest of the union at large, will be known and pursued. No local views will be permitted to operate against the general welfare. But when propositions should come before a particular state, there is every reason to believe, that qualifications of the requisitions would be proposed; compliance might be promised, and some instant remittances might be made. This will cause delays, which, in the first instance, will produce disappointment, and produce failures every where else. This, I hope, will be considered with the attention it deserves. The public creditors will be disappointed, and of course, become more pressing. Requisitions will be made for purposes equally pervading all America; but the exertions to make compliances, will probably not be uniform in the states. If requisitions be made for future occasions for putting the states in a condition of military defence, or to repel an invasion, will the exertions be uniform and equal in all the states? Some parts of the United States are more exposed than others. Will the least exposed states exert themselves equally? We know that the most exposed will be more immediately interested, and will incur less sacrifices in making exertions. I beg gentlemen to consider, that this argument will apply with most effect to the states which are most defenceless and exposed. The southern states are most exposed, whether we consider their situation, or the smallness of their population. And there are other circumstances which render them still more vulnerable, which do not apply to the northern states. They are therefore more interested in giving the government a power to command the whole strength of the union in cases of emergency. Do not gentlemen conceive that this mode of obtaining supplies from the states, will keep alive animosities between the general government and particular states?

Where the chances of failures are so numerous as thirteen, by the thirteen states, disappointment, in the first place, and consequent animosity, must inevitably take place.

Let us consider the alternatives, proposed by gentlemen, instead of the power of laying direct taxes. After the states shall have refused to comply, weigh the consequences of the exercise of this power by Congress. When it comes in the form of a punishment, great clamors will be raised among the people against the government; hatred will be excited against it. It will be regarded as an ignominious stigma on the state. It will be considered at least in this light by the state where the failure is made, and these sentiments will, no doubt, be diffused through the other states. Now let us consider the effect, if collectors are sent where the state governments refuse to comply with requisitions. It is too much the disposition of mankind not to stop at one violation of duty. I conceive that every requisition that will be made on any part of America, will kindle a contention between the delinquent member, and the general government. Is there no reason to suppose divisions in the government (for seldom does any thing pass with unanimity,) on the subject of requisitions? The parts least exposed will oppose those measures which may be adopted for the defence of the weakest parts. Is there no reason to presume, that the representatives from the delinquent states will be more likely to foster disobedience to the requisitions of the government, than to endeavor to recommend a compliance with them to the public?

There is, in my opinion, another point of view in which this alternative will produce great evil. I will suppose a case that is very probable, namely, that partial compliances will be made. A difficulty here arises, which fully demonstrates its impolicy. If a part be paid, and the rest be withheld, how is the general government to proceed? They are to impose a



tax, but how shall it be done in this case? Are they to impose it by way of punishment, on those who have paid, as well as those who have not? All these considerations taken into view, (for they are not visionary or fanciful speculations,) will certainly produce this consequence. The general government, to avoid those disappointments first described, and to avoid the contentions and embarrassments which I have last described, will, in all probability, throw the public burdens on those branches of revenue that will be more in their power. They will be continually necessitated to augment the imposts. If we throw a disproportion of the burdens on that side, shall we not discourage commerce, and suffer many political evils? Shall we not increase that disproportion on the southern states, which for some time will operate against us? The southern states, from having fewer manufactures, will import and consume more. They will therefore pay more of the imposts. The more commerce is burdened, the more the disproportion will operate against them. If direct taxation be mixed with other taxes, it will be in the power of the general government to lessen that inequality. But this inequality will be increased to the utmost extent, if the general government have not this power. There is another point of view in which this subject affords us instruction. The imports will decrease in time of war. An honorable gentleman has said, that the imposts would be so productive that there would be no occasion for laying taxes. I will submit two observations to him and to the committee. First, in time of war the imposts will be less; and, as I hope we are considering a government for a perpetual duration, we ought to provide for every future contingency. At present, our importations bear a full proportion to the full amount of our sales, and to the number of our inhabitants; but when we have inhabitants enough, our imports will decrease; and as the national demands will increase with our population, our resources will

increase as our wants increase. The other consideration, which I will submit on this part of the subject, is this. I believe it will be found in practice, that those who fix the public burdens, will feel a greater degree of responsibility when they are to impose them on the citizens immediately, than if they were to say what sum should be paid by the states. If they exceed the limits of propriety, universal discontent and clamor will arise. Let us suppose they were to collect the taxes from the citizens of America; would they not consider their circumstances? Would they not attentively weigh what could be done by the citizens at large? Were they to exceed in their demands, what were reasonable burdens, the people would impute it to the right source, and look on the imposers as odious.

When I consider the nature of the various objections brought against this clause, I should be led to think, that the difficulties were such that gentlemen would not be able to get over them, and that the power, as defined in the plan of the convention, was impracticable. I shall trouble them with a few observations on that point.

It has been said, that ten men deputed from this state, and others in proportion from other states, will not be able to adjust direct taxes so as to accommodate the various citizens in thirteen states.

I confess I do not see the force of this observation. Could not ten intelligent men, chosen from ten districts from this state, lay direct taxes on a few objects in the most judicious manner? It is easily to be conceived, that they would be acquainted with the situation of the different citizens of this country. Can any one divide this state into any ten districts so as not to contain men of sufficient information? Could not one man of knowledge be found in a district? When thus selected, will they not be able to carry their knowledge into the general council? I may say with great propriety, that the experience of our own legislature



demonstrates the competency of Congress to lay taxes wisely. Our assembly consists of considerably more than a hundred, yet from the nature of the business, it devolves on a much smaller number. It is through their sanction, approved of by all the others. It will be found that there are seldom more than ten men who rise to high information on this subject. Our federal representatives, as has been said by an honorable member, who has entered into the subject with a great deal of ability, will get information from the state governments. They will be perfectly well informed of the circumstances of the people of the different states, and the mode of taxation that would be most convenient for them, from the laws of the states. In laying taxes, they may even refer to the state systems of taxation. Let it not be forgotten, that there is a probability, that that ignorance, which is complained of in some parts of America, will be continually diminishing. Let us compare the degree of knowledge which the people had in time past, to their present information. Does not our own experience teach us, that the people are better informed than they were a few years ago? The citizen of Georgia knows more now of the affairs of New Hampshire, than he did, before the revolution, of those of South Carolina. When the representatives from the different states are collected together, to consider this subject, they will interchange their knowledge with one another, and will have the laws of each state on the table. Besides this, the intercourse of the states will be continually increasing. It is now much greater than before the revolution. An honorable friend of mine seems to conceive, as an insuperable objection, that if land were made the particular object of taxation, it would be unjust, as it would exonerate the commercial part of the community; that if it were laid on trade, it would be unjust in discharging the landholders; and that any exclusive selection would be unequal and unfair. If the general government

were tied down to one object, I confess the objection would have some force in it. But if this be not the case, it can have no weight. If it should have a general power of taxation, they could select the most proper objects, and distribute the taxes in such a manner, as that they should fall in a due degree on every member of the community. They will be limited to fix the proportion of each state, and they must raise it in the most convenient and satisfactory manner to the public.

The honorable member considered it as another insuperable objection, that uniform laws could not be made for thirteen states, and that dissonance would produce inconvenience and oppression. Perhaps it may not be found on due inquiry, to be so impracticable as he supposes. But were it so, where is the evil of different laws operating in different states, to raise money for the general government? Where is the evil of such laws? There are instances in other countries, of different laws operating in different parts of the country, without producing any kind of oppression. The revenue laws are different in England and Scotland in several respects. Their laws relating to custom, excises and trade, are similar; but those respecting direct taxation are dissimilar. There is a land tax in England, and a land tax in Scotland, but the laws concerning them are not the same. It is much heavier in proportion in the former than in the latter. The mode of collection is different; yet this is not productive of any national inconvenience. Were we to argue from the objections against the proposed plan, we must conclude that this dissimilarity would, in that point alone, have involved those kingdoms in difficulties. In England itself, there is a variety of different laws operating differently in different places.

I will make another observation on the objection of my honorable friend. He seemed to conclude, that concurrent collections under different authorities, were



not reducible to practice. I agree that were they independent of the people, the argument would be good. But they must serve one common master. They must act in concert, or the defaulting party must bring on itself the resentment of the people. If the general government be so constructed, that it will not dare to impose such burdens as will distress the people, where is the evil of its having a power of taxation concurrent with the states? The people would not support it, were it to impose oppressive burdens. Let me make one more comparison of the state governments to this plan. Do not the states impose taxes for local purposes? Does the concurrent collection of taxes, imposed by the legislatures for general purposes, and of levies laid by the counties for parochial and county purposes, produce any inconvenience or oppression? The collection of these taxes is perfectly practicable, and consistent with the views of both parties. The people at large are the common superior of the state governments, and the general government. It is reasonable to conclude, that they will avoid interferences for two causes—to avoid public oppression, and to render the collections more productive. I conceive they will be more likely to produce disputes, in rendering it convenient for the people, than to run into interfering regulations.

In the third place, I shall consider, whether the power of taxation to be given to the general government be safe: and first, whether it be safe as to the public liberty in general. It would be sufficient to remark, that it is, because, I conceive, the point has been clearly established by more than one gentleman who have already spoken on the same side with me. In the decision of this question, it is of importance to examine, whether elections of representatives by great districts of freeholders, be favorable to the fidelity of representatives. The greatest degree of treachery in representatives, is to be apprehended where they are chosen by the least number of electors; because there

is a greater facility of using undue influence, and because the electors must be less independent. This position is verified in the most unanswerable manner, in that country to which appeals are so often made, and sometimes instructively. Who are the most corrupt members of Parliament? Are they not the inhabitants of small towns and districts? The supporters of liberty are from the great counties. Have we not seen that the representatives of the city of London, who are chosen by such thousands of voters, have continually studied and supported the liberties of the people, and opposed the corruption of the crown? We have seen continually, that most of the members in the ministerial majority are drawn from small circumscribed districts. We may therefore conclude, that our representatives being chosen by such extensive districts, will be upright and independent. In proportion as we have security against corruption in representatives, we have security against corruption from every other quarter whatsoever.

I shall take a view of certain subjects which will lead to some reflections, to quiet the minds of those gentlemen who think that the individual governments will be swallowed up by the general government. In order to effect this, it is proper to compare the state governments to the general government with respect to reciprocal dependence, and with respect to the means they have of supporting themselves, or of encroaching upon one another. At the first comparison, we must be struck with these remarkable facts. The general government has not the appointment of a single branch of the individual governments, or of any officers within the states, to execute their laws. Are not the states integral parts of the general government? Is not the president chosen under the influence of the state legislatures? May we not suppose that he will be complaisant to those from whom he has his appointment, and from whom he must have his reappointment? The senators are appointed altogether by the legislatures.



The honorable gentleman apprehends a coalition between the president, senate and house of representatives, against the states. This could be supposed only from a similarity of the component parts.

A coalition is not likely to take place, because its component parts are heterogeneous in their nature. The house of representatives is not chosen by the state governments, but under the influence of those who compose the state legislature. Let us suppose ten men appointed to carry the government into effect; there is every degree of certainty, that they would be indebted, for their re-election, to the members of the legislatures. If they derive their appointment from them, will they not execute their duty to them? Besides this, will not the people, (whose predominant interest will ultimately prevail,) feel great attachment to the state legislatures? They have the care of all local interests—those familiar, domestic objects, for which men have the strongest predilection. The general government, on the contrary, has the preservation of the aggregate interests of the union; objects, which being less familiar, and more remote from men's notice, have a less powerful influence on their minds. Do we not see great and natural attachments arising from local considerations? This will be the case, in a much stronger degree, in the state governments, than in the general government. The people will be attached to their state legislatures from a thousand causes: and into whatever scale the people at large will throw themselves, that scale will preponderate. Did we not perceive, in the early stages of the war, when Congress was the idol of America, and when in pursuit of the object most dear to America, that they were attached to their states? Afterwards, the whole current of their affection was to the states, and it would be still the case, were it not for the alarming situation of America.

At one period of the congressional history, they had power to trample on the states. When they had that

fund of paper money in their hands, and could carry on all their measures without any dependence on the states, was there any disposition to debase the state governments? All that municipal authority which was necessary to carry on the administration of the government, they still retained unimpaired. There was no attempt to diminish it.

I am led, by what has fallen from gentlemen, to take this supposed combination in another view. Is it supposed, that the influence of the general government will facilitate a combination between the members? Is it supposed, that it will preponderate against that of the state governments? The means of influence consist in having the disposal of gifts and emoluments, and in the number of persons employed by, and dependent upon a government. Will any gentleman compare the number of persons who will be employed in the general government, with the number of those that will be in the state governments? The number of dependants upon the state governments will be infinitely greater than those on the general government. I may say with truth, that there never was a more economical government in any age or country; nor which will require fewer agents, or give less influence.

Let us compare the members composing the legislative, executive and judicial powers in the general government, with those in the states, and let us take into view the vast number of persons employed in the states; from the chief officers to the lowest, we shall find the scale preponderating so much in favor of the states, that while so many persons are attached to them, it will be impossible to turn the balance against them. There will be an irresistible bias towards the state governments. Consider the number of militia officers, the number of justices of the peace, the number of the members of the legislatures, and all the various officers for districts, towns and corporations, all intermixing with, and residing among the people at large. While this part of the community retains its



affection to the state governments, I conceive the fact to be, that the state governments, and not the general government, will preponderate. It cannot be contradicted, that they have more extensive means of influence. I have my fears, as well as the honorable gentleman; but my fears are on the other side. Experience, I think, will prove, (though there be no infallible proof of it here,) that the powerful and prevailing influence of the states, will produce such attention to local considerations, as will be inconsistent with the advancement of the interests of the union. But I choose rather to indulge my hopes than fears, because I flatter myself, if inconveniences should result from it, that the clause which provides amendments will remedy them. The combination of powers vested in those persons, would seem conclusive in favor of the states.

The powers of the general government relate to external objects, and are but few. But the powers in the states relate to those great objects which immediately concern the prosperity of the people. Let us observe also, that the powers in the general government are those which will be exercised mostly in time of war, while those of the state governments will be exercised in time of peace. But I hope the time of war will be little, compared to that of peace. I could not complete the view which ought to be taken of this subject, without making this additional remark, that the powers vested in the proposed government, are not so much an augmentation of authority in the general government, as a change rendered necessary, for the purpose of giving efficacy to those which were vested in it before. It cannot escape any gentleman, that this power in theory, exists in the confederation as fully as in this constitution. The only difference is this, that now they tax states, and by this plan, they will tax individuals. There is no theoretic difference between the two. But in practice there will be an infinite difference between them. The one is an ineffectual

power: the other is adequate to the purpose for which it is given. This change was necessary for the public safety.

Let us suppose, for a moment, that the acts of Congress, requiring money from the states, had been as effectual as the paper on the table: suppose all the laws of Congress had had complete compliance, will any gentleman say, that as far as we can judge from past experience, the state governments would have been debased, and all consolidated and incorporated in one system? My imagination cannot reach it. I conceive, that had those acts the effect which all laws ought to have, the states would have retained their sovereignty.

It seems to be supposed, that it will introduce new expenses and burdens on the people. I believe it is not necessary here to make a comparison between the expenses of the present and of the proposed government. All agree that the general government ought to have power for the regulation of commerce. I will venture to say, that very great improvements, and very economical regulations will be made. It will be a principal object to guard against smuggling, and such other attacks on the revenue as other nations are subject to. We are now obliged to defend against those lawless attempts; but from the interfering regulations of different states, with very little success. There are regulations in different states which are unfavorable to the inhabitants of other states, and which militate against the revenue. New York levies money from New Jersey by her imposts. In New Jersey, instead of co-operating with New York, the legislature favors encroachments on her regulations. This will not be the case when uniform arrangements shall be made.

Requisitions, though ineffectual, are unfriendly to economy. When requisitions are submitted to the states, there are near two thousand five hundred persons deliberating on the mode of payment. All these,



during their deliberation, receive public pay. A great proportion of every session, in every state, is employed to consider whether they will pay at all, and in what mode. Let us suppose fifteen hundred persons deliberating on this subject. Let any one make a calculation; and it will be found that a very few days of their deliberation will consume more of the public money, than one year of that of the general legislature. This is not all, Mr. Chairman. When general powers shall be vested in the general government, there will be less of that mutability which is seen in the legislation of the states. The consequence will be a great saving of expense and time. There is another great advantage which I will but barely mention. The greatest calamity to which the United States can be subject, is a vicissitude of laws, and a continual shifting and changing from one object to another, that must expose the people to various inconveniences. This has a certain effect, of which sagacious men always have, and always will make an advantage. From whom is advantage made? From the industrious farmers and tradesmen, who are ignorant of the means of making such advantages. The people will not be exposed to these inconveniences under a uniform and steady course of legislation. But they have been so heretofore.

Sir, it has been said, that by giving up the power of taxation, we should give up every thing; that requisitions ought to be made on the states, and that then, if they be not complied with, Congress should lay direct taxes by way of penalty. Let us consider the dilemma which arises from this doctrine. Either requisitions will be efficacious or they will not. If they be efficacious, then I say, sir, we give up every thing as much as by direct taxation. The same amount will be paid by the people as by direct taxes. If they be not efficacious, where is the advantage of this plan? In what respect will it relieve us from the inconveniences which we have experienced from requisitions? The power

of laying direct taxes by the general government, is supposed by the honorable gentleman, to be chimerical and impracticable. What is the consequence of the alternative he proposes? We are to rely upon this power to be ultimately used, as a penalty to compel the states to comply. If it be chimerical and impracticable in the first instance, it will be equally so when it will be exercised as a penalty. A reference has been made to concurrent executions, as an instance of the possibility of interference between the two governments. But it may be answered, that under the state governments, concurrent executions cannot produce the inconvenience here dreaded, because they are executed by the same officer. Is it not in the power of the general government to employ the state officers? Is nothing to be left to future legislation, or must every thing be immutably fixed in the constitution? Where exclusive power is given to the union, there can be no interference. Where the general and state legislatures have concurrent power, such regulations will be made, as may be found necessary to exclude interferences and other inconveniences. It will be their interest to make such regulations.

It has been said, that there is no similarity between petty corporations and independent states. I admit that, in many points of view, there is a great dissimilarity, but in others, there is a striking similarity between them, which illustrates what is before us. Have we not seen in our own country (as has been already suggested in the course of the debates,) concurrent collections of taxes going on at once, without producing any inconvenience? We have seen three distinct collections of taxes for three distinct purposes. Has it not been found practicable and easy for collections of taxes, for parochial, county and state purposes, to go on at the same time? Every gentleman must know, that this is now the case, and though there be a subordination in these cases which will not be in the general government, yet in practice it has been found, that these differ-



ent collections have been concurrently carried on, with convenience to the people, without clashing with one another, and without deriving their harmony from the circumstance of being subordinate to one legislative body. The taxes will be laid for different purposes. The members of the one government, as well as of the other, are the agents of, and subordinate to, the people. I conceive that the collections of the taxes of the one will not impede those of the other, and that there can be no interference. This concurrent collection appears to me neither chimerical nor impracticable.

Gentlemen compare resistance of the people to collectors, to refusal of requisitions. This goes against all government. It is as much as to urge that there should be no legislature. The gentlemen who favored us with their observations on this subject, seemed to have reasoned on a supposition, that the general government was confined, by the paper on your table, to lay general uniform taxes. Is it necessary that there should be a tax on any given article throughout the United States? It is represented to be oppressive, that the states who have slaves and make tobacco, should pay taxes on these for federal wants, when other states, who have them not, would escape. But does the constitution on the table admit of this? On the contrary, there is a proportion to be laid on each state, according to its population. The most proper articles will be selected in each state. If one article in any state should be deficient, it will be laid on another article. Our state is secured on this foundation. Its proportion will be commensurate to its population. This is a constitutional scale, which is an insuperable bar against disproportion, and ought to satisfy all reasonable minds. If the taxes be not uniform, and the representatives of some states contribute to lay a tax of which they bear no proportion, is not this principle reciprocal? Does not the same principle hold in our state government in some degree? It has been found inconvenient to fix on uniform objects of taxation in this state, as the back

parts are not circumstanced like the lower parts of the country. In both cases, the reciprocity of the principle will prevent a disposition in one part to oppress the other. An honorable gentleman seems to suppose that Congress, by the possession of this ultimate power as a penalty, will have as much credit, and will be as able to procure any sums, on any emergency, as if they were possessed of it in the first instance; and that the votes of Congress will be as competent to procure loans, as the votes of the British commons. Would the votes of the British house of commons have that credit which they now have, if they were liable to be retarded in their operation, and perhaps rendered ultimately nugatory as those of Congress must be by the proposed alternative? When their vote passes, it usually receives the concurrence of the other branch, and it is known that there is sufficient energy in the government, to carry it into effect. But here, the votes of Congress are, in the first place, dependent on the compliance of thirteen different bodies, and after non-compliance, are liable to be opposed and defeated, by the jealousy of the states against the exercise of this power, and by the opposition of the people, which may be expected, if this power be exercised by Congress after partial compliances. These circumstances being known, Congress could not command one shilling. He seems to think that we ought to spare the present generation, and throw our burdens upon posterity. I will not contest the equity of this reasoning, but I must say that good policy, as well as views of economy, strongly urge us even to distress ourselves to comply with our most solemn engagements. We must make effectual provision for the payment of the interest of our public debts. In order to do justice to our creditors, and support our credit and reputation, we must lodge power somewhere or other for this purpose. As yet the United States have not been able, by any energy contained in the old system, to accomplish this end. Our creditors have a right to demand the principal, but would be satisfied with a punctual payment of the interest. If



we have been unable to pay the interest, much less shall we be able to discharge the principal. It appears to me, that the whole reasoning used on this occasion shows, that we ought to adopt this system, in order to enable us to throw our burdens on posterity. The honorable member spoke of the *decemviri* at Rome, as having some similitude to the ten representatives who are to be appointed by this state. I can see no point of similitude here, to enable us to draw any conclusion. For what purpose were the *decemviri* appointed? They were invested with a plenary commission to make a code of laws. By whom were they appointed—by the people at large? No; my memory is not infallible, but it tells me they were appointed by the senate and composed of the most influential characters among the nobles. Can any thing be inferred from that against our federal representatives? Who made a discrimination between the nobles and the people?—the senate. Those men totally perverted the powers, which were given them for the purpose above specified, to the subversion of the public liberty. Can we suppose that a similar usurpation might be made, by men appointed in a totally different manner? As their circumstances were totally dissimilar, I conceive that no arguments drawn from that source, can apply to this government. I do not thoroughly comprehend the reasoning of the honorable gentleman, when he tells us, that the federal government will predominate, and that the state interests will be lost; when, at the same time, he tells us, that it will be a faction of seven states. If seven states will prevail as states, I conceive that state influence will prevail. If state influence under the present feeble government has prevailed, I think that a remedy ought to be introduced by giving the general government power to suppress it.

He supposes that any argument with respect to a future war between Great Britain and France is fallacious. The other nations of Europe have acceded to that neutrality, while Great Britain opposed it. We

need not expect, in case of such a war, that we should be suffered to participate of the profitable emoluments of the carrying trade, unless we were in a respectable situation. Recollect the last war. Was there ever a war in which the British nation stood opposed to so many nations? All the belligerent powers in Europe, with nearly one half of the British empire, were united against it. Yet that nation, though defeated, and humbled beyond any previous example, stood out against this. From her firmness and spirit in such desperate circumstances, we may divine what her future conduct may be. I did not contend, that it was necessary for the United States to establish a navy for that sole purpose, but instanced it as one reason out of several, for rendering ourselves respectable. I am no friend to naval or land armaments in time of peace, but if they be necessary, the calamity must be submitted to. Weakness will invite insults. A respectable government will not only entitle us to a participation of the advantages which are enjoyed by other nations, but will be a security against attacks and insults. It is to avoid the calamity of being obliged to have large armaments, that we should establish this government. The best way to avoid danger, is to be in a capacity to withstand it.

The imposts, we are told, will not diminish, because the emigrations to the westward will prevent the increase of population. Gentlemen have reasoned on this subject justly, to a certain degree. I admit, that the imposts will increase till population becomes so great as to compel us to recur to manufactures. The period cannot be very far distant, when the unsettled parts of America will be inhabited. At the expiration of twenty-five years hence, I conceive, that in every part of the United States, there will be as great a population as there is now in the settled parts. We see already, that in the most populous parts of the union, and where there is but a medium, manufactures are beginning to be established. Where this is the case,



the amount of importations will begin to diminish. Although the imposts may even increase during the term of twenty-five years, yet when we are preparing a government for perpetuity, we ought to found it on permanent principles, and not on those of a temporary nature.

Holland is a favorite quotation with honorable members on the other side of the question. Had not their sentiments been discovered by other circumstances, I should have concluded from their reasonings on this occasion, that they were friends to the constitution. I should suppose, that they had forgotten which side of the question they were defending. Holland has been called a republic, and a government friendly to liberty. Though it may be greatly superior to some other governments in Europe, still it is not a republic, nor a democracy. Their legislature consists, in some degree, of men who legislate for life. Their councils consist of men who hold their offices for life, and who fill up offices and appoint their salaries themselves. The people have no agency, mediate or immediate, in the government. If we look at their history, we shall find, that every mischief which has befallen them, has resulted from the existing confederacy. If the stadtholder has been productive of mischief—if we ought to guard against such a magistrate more than any evil, let me beseech the honorable gentleman to take notice of what produced that, and of those troubles which interrupted their tranquillity from time to time. The weakness of their confederacy produced both. When the French arms were ready to overpower their republic, and the Hollanders were feeble in the means of defence, which was principally owing to the violence of parties, they then appointed a stadtholder, who sustained them. If we look at more recent events, we shall have a more pointed demonstration, that their political infelicity arose from the imbecility of their government. In the late disorders, the states were almost equally divided, three provinces on one side, three on

the other, and the other divided: one party inclined to the Prussians, and the other to the French. The situation of France did not admit of their interposing immediately in their disputes by an army; that of the Prussians did. A powerful and large army marched into Holland and compelled the other party to surrender. We know the distressing consequences to the people. What produced those disputes and the necessity of foreign interference but the debility of their confederacy? We may be warned by their example, and shun their fate, by removing the causes which produced their misfortunes.

My honorable friend has referred to the transactions of the federal council with respect to the navigation of the Mississippi. I wish it was consistent with delicacy and prudence to lay a complete view of the whole matter before this committee. The history of it is singular and curious, and perhaps its origin ought to be taken into consideration. I will touch on some circumstances, and introduce nearly the substance of most of the facts relative to it, that I may not seem to shrink from explanation. It was soon perceived, sir, after the commencement of the war with Britain, that among the various objects that would affect the happiness of the people of America, the navigation of the Mississippi was one. Throughout the whole history of foreign negotiation, great stress was laid on its preservation. In the time of our greatest distresses, and particularly when the southern states were the scene of war, the southern states cast their eyes around to be relieved from their misfortunes. It was supposed that assistance might be obtained for the relinquishment of that navigation. It was thought that for so substantial a consideration, Spain might be induced to afford decisive succor. It was opposed by the northern and eastern states. They were sensible that it might be dangerous to surrender this important right, particularly to the inhabitants of the western country. But so it was, that the southern states were for it, and the



eastern states opposed it. Since obtaining that happy peace, which secures to us all our claims, this subject has been taken again into consideration, and deliberated upon in the federal government. A temporary relinquishment has been agitated. Several members from the different states, but particularly from the northern, were for a temporary surrender, because it would terminate disputes, and at the end of the short period for which it was to be given, the right would revert, of course, to those who had given it up. And for this temporary surrender some commercial advantages were offered. For my part, I considered that this measure, though founded on considerations plausible and honorable, was yet not justifiable but on grounds of inevitable necessity. I must declare, in justice to many characters who were in Congress, that they declared they never would agree to the measure, unless the situation of the United States was such as could not prevent it.

On the whole, I am persuaded that the adoption of this government will be favorable to the preservation of the right to that navigation. Emigrations will be made from those parts of the United States which are settled, to those which are unsettled. If we afford protection to the western country, we shall see it rapidly peopled. Emigrations from some of the northern states have lately increased. We may conclude, that those who emigrate to that country, will leave behind them all their friends and connexions as advocates for this right.

What was the cause of those states being the champions of this right, when the southern states were disposed to surrender it? The preservation of this right will be for the general interest of the union. The western country will be settled from the north as well as from the south, and its prosperity will add to the strength and security of the nation. I am not able to recollect all those circumstances which would be necessary to give gentlemen a full view of the subject. I

can only add, that I consider the establishment of the new government to be the best possible means of securing our rights as well in the western parts as elsewhere.

I will not sit down till I make one more observation on what fell from an honorable member. He said, that the true difference between the states, lies in this circumstance—that some are carrying states, and others productive, and that the operation of the new government will be, that there will be a plurality of the former to combine against the interest of the latter, and that consequently it will be dangerous to put it in their power to do so. I would join with him in sentiment, if this were the case. Were this within the bounds of probability, I should be equally alarmed; but I think that those states which are contradistinguished as carrying states, from the non-importing states, will be but few. I suppose the southern states will be considered by all, as under the latter description. Some other states have been mentioned by an honorable member on the same side, which are not considered as carrying states. New Jersey and Connecticut can by no means be enumerated among the carrying states. They receive their supplies through New York. Here then is a plurality of non-importing states. I could add another, if necessary. Delaware, though situated upon the water, is upon the list of non-carrying states. I might say that a great part of New Hampshire is so. I believe a majority of the people of that state receive their supplies from Massachusetts, Rhode Island and Connecticut. Might I not add all those states which will be admitted hereafter into the union? These will be non-carrying states, and will support Virginia in case the carrying states should attempt to combine against the rest. This objection must therefore fall to the ground.\*

\* The preceding speech is composed of several delivered by Mr. Madison during the session of the convention.



*L. V. D. p. 86*

## SPEECH OF PATRICK HENRY,

ON THE EXPEDIENCY OF ADOPTING THE

FEDERAL CONSTITUTION,

DELIVERED IN THE CONVENTION OF VIRGINIA, JUNE 7, 1788.



MR. CHAIRMAN,

I HAVE thought, and still think, that a full investigation of the actual situation of America, ought to precede any decision on this great and important question. That government is no more than a choice among evils, is acknowledged by the most intelligent among mankind, and has been a standing maxim for ages. If it be demonstrated, that the adoption of the new plan is a little or a trifling evil, then, sir, I acknowledge that adoption ought to follow: but, sir, if this be a truth, that its adoption may entail misery on the free people of this country, I then insist, that rejection ought to follow. Gentlemen strongly urge that its adoption will be a mighty benefit to us: but, sir, I am made of such incredulous materials, that assertions and declarations do not satisfy me. I must be convinced, sir. I shall retain my infidelity on that subject till I see our liberties secured in a manner perfectly satisfactory to my understanding.

There are certain maxims, by which every wise and enlightened people will regulate their conduct. There are certain political maxims, which no free people ought ever to abandon: maxims, of which the observance is essential to the security of happiness. It is

impiously irritating the avenging hand of heaven, when a people, who are in the full enjoyment of freedom, launch out into the wide ocean of human affairs, and desert those maxims which alone can preserve liberty. Such maxims, humble as they are, are those only which can render a nation safe or formidable. Poor little humble republican maxims have attracted the admiration and engaged the attention of the virtuous and wise in all nations, and have stood the shock of ages. We do not now admit the validity of maxims, which we once delighted in. We have since adopted maxims of a different, but more refined nature; new maxims, which tend to the prostration of republicanism.

We have one, sir, that all men are by nature free and independent, and have certain inherent rights, of which, when they enter into society, they cannot, by any compact, deprive or divest their posterity. We have a set of maxims of the same spirit, which must be beloved by every friend to liberty, to virtue, to mankind—our bill of rights contains those admirable maxims.

Now, sir, I say, let us consider, whether the picture given of American affairs ought to drive us from those beloved maxims.

The honorable gentleman, (Mr. Randolph,) has said, that it is too late in the day for us to reject this new plan. That system which was once execrated by the honorable member, must now be adopted, let its defects be ever so glaring. That honorable member will not accuse me of want of candor, when I cast in my mind what he has given the public,\* and compare it to what has happened since. It seems to me very strange and unaccountable, that what was the object of his execration should now receive his encomiums. Something extraordinary must have operated so great a change in his opinion. It is too late in the day! Gen-

\* Alluding to Mr. Randolph's letter on that subject, to the speaker of the house of delegates.



lemen must excuse me, if they should declare again and again, that it is too late, and I should think differently. I never can believe, sir, that it is too late to save all that is precious. If it be proper, and, independently of every external consideration, wisely constructed, let us receive it: but, sir, shall its adoption, by eight states, induce us to receive it, if it be replete with the most dangerous defects? They urge, that subsequent amendments are safer than previous amendments, and that they will answer the same ends. At present, we have our liberties and privileges in our own hands. Let us not relinquish them. Let us not adopt this system till we see them secured. There is some small possibility, that should we follow the conduct of Massachusetts, amendments might be obtained. There is a small possibility of amending any government; but, sir, shall we abandon our inestimable rights, and rest their security on a mere possibility? The gentleman fears the loss of the union. If eight states have ratified it unamended, and we should rashly imitate their precipitate example, do we not thereby disunite from several other states? Shall those who have risked their lives for the sake of union, be at once thrown out of it? If it be amended, every state will accede to it; but by an imprudent adoption in its defective and dangerous state, a schism must inevitably be the consequence; I can never, therefore, consent to hazard our unalienable rights on an absolute uncertainty. You are told there is no peace, although you fondly flatter yourselves that all is peace—no peace; a general cry and alarm in the country; commerce, riches and wealth vanished; citizens going to seek comforts in other parts of the world; laws insulted; many instances of tyrannical legislation. These things, sir, are new to me. He has made the discovery. As to the administration of justice, I believe that failures in commerce, &c. cannot be attributed to it. My age enables me to recollect its progress under the old government. I can justify it by

saying, that it continues in the same manner in this state, as it did under the former government. As to other parts of the continent, I refer that to other gentlemen. As to the ability of those who administer it, I believe they would not suffer by a comparison with those who administered it under the royal authority. Where is the cause of complaint if the wealthy go away? Is this, added to the other circumstances, of such enormity, and does it bring such danger over this commonwealth, as to warrant so important, and so awful a change, in so precipitate a manner? As to insults offered to the laws, I know of none. In this respect, I believe this commonwealth would not suffer by a comparison with the former government. The laws are as well executed, and as patiently acquiesced in, as they were under the royal administration. Compare the situation of the country; compare that of our citizens to what they were then, and decide whether persons and property are not as safe and secure as they were at that time. Is there a man in this commonwealth, whose person can be insulted with impunity? Cannot redress be had here for personal insults or injuries, as well as in any part of the world; as well as in those countries where aristocrats and monarchs triumph and reign? Is not the protection of property in full operation here? The contrary cannot, with truth, be charged on this commonwealth. Those severe charges which are exhibited against it, appear to me totally groundless. On a fair investigation, we shall be found to be surrounded by no real dangers. We have the animating fortitude and persevering alacrity of republican men, to carry us through misfortunes and calamities. 'Tis the fortune of a republic to be able to withstand the stormy ocean of human vicissitudes. I know of no danger awaiting us. Public and private security are to be found here in the highest degree. Sir, it is the fortune of a free people, not to be intimidated by imaginary dangers. Fear is the passion of slaves. Our political and natural hemis-



pheres are now equally tranquil. Let us recollect the awful magnitude of the subject of our deliberation. Let us consider the latent consequences of an erroneous decision, and let not our minds be led away by unfair misrepresentations and uncandid suggestions. There have been many instances of uncommon lenity and temperance used in the exercise of power in this commonwealth. I could call your recollection to many that happened during the war and since, but every gentleman here must be apprised of them.

The honorable member has given you an elaborate account of what he judges tyrannical legislation, and an *ex post facto* law in the case of Josiah Phillips. He has misrepresented the facts. That man was not executed by a tyrannical stroke of power; nor was he a Socrates. He was a fugitive murderer and an outlaw; a man who commanded an infamous banditti, at a time when the war was at the most perilous stage. He committed the most cruel and shocking barbarities. He was an enemy to the human name. Those, who declare war against the human race, may be struck out of existence as soon as they are apprehended. He was not executed according to those beautiful legal ceremonies which are pointed out by the laws, in criminal cases. The enormity of his crimes did not entitle him to it. I am truly a friend to legal forms and methods; but, sir, the occasion warranted the measure. A pirate, an outlaw, or a common enemy to all mankind, may be put to death at any time. It is justified by the laws of nature and nations.

The honorable member tells us then, that there are burnings and discontents in the hearts of our citizens in general, and that they are dissatisfied with their government. I have no doubt the honorable member believes this to be the case, because he says so. But I have the comfortable assurance, that it is a certain fact, that it is not so. The middle and lower ranks of people have not those illumined ideas, which the well-

born are so happily possessed of; they cannot so readily perceive latent objects. The microscopic eyes of modern statesmen, can see abundance of defects in old systems; and their illumined imaginations discover the necessity of a change. They are captivated by the parade of the number ten; the charms of the ten miles square. Sir, I fear this change will ultimately lead to our ruin. My fears are not the force of imagination; they are but too well founded. I tremble for my country: but, sir, I trust, I rely, and I am confident, that this political speculation has not taken so strong a hold of men's minds, as some would make us believe.

The dangers which may arise from our geographical situation, will be more properly considered a while hence. At present, what may be surmised on the subject, with respect to the adjacent states, is merely visionary. Strength, sir, is a relative term. When I reflect on the natural force of those nations that might be induced to attack us, and consider the difficulty of the attempt and uncertainty of the success, and compare thereto the relative strength of our country, I say that we are strong. We have no cause to fear from that quarter; we have nothing to dread from our neighboring states. The superiority of our cause would give us an advantage over them, were they so unfriendly or rash as to attack us. As to that part of the community, which the honorable gentleman spoke of as in danger of being separated from us, what incitement or inducement could its inhabitants have to wish such an event? It is a matter of doubt whether they would derive any advantage to themselves, or be any loss to us by such a separation. Time has been, and may yet come, when they will find it their advantage and true interest to be united with us. There is no danger of a dismemberment of our country, unless a constitution be adopted which will enable the government to plant enemies on our backs. By the confederation, the rights of territory are secured. No



treaty can be made without the consent of nine states. While the consent of nine states is necessary to the cession of territory, you are safe. If it be put in the power of a less number, you will most infallibly lose the Mississippi. As long as we can preserve our unalienable rights, we are in safety. This new constitution will involve in its operation the loss of the navigation of that valuable river. The honorable gentleman cannot be ignorant of the Spanish transactions. A treaty had been nearly entered into with Spain, to relinquish that navigation, and that relinquishment would absolutely have taken place, had the consent of seven states been sufficient. The honorable gentleman told us then, that eight states having adopted this system, we cannot suppose they will recede on our account. I know not what they may do; but this I know, that a people of infinitely less importance than those of Virginia, stood the terror of war. Vermont, sir, withstood the terror of thirteen states. Maryland did not accede to the confederation till the year 1781. These two states, feeble as they are, comparatively to us, were not afraid of the whole union. Did either of these states perish? No, sir, they were admitted freely into the union. Will not Virginia then be admitted? I flatter myself that those states who have ratified the new plan of government will open their arms and cheerfully receive us, although we should propose certain amendments as the conditions on which we would ratify it. During the late war, all the states were in pursuit of the same object. To obtain that object, they made the most strenuous exertions. They did not suffer trivial considerations to impede its acquisition. Give me leave to say, that if the smallest states in the union were admitted into it, after having unreasonably procrastinated their accession, the greatest and most mighty state in the union, will be easily admitted, when her reluctance to an immediate accession to this system is founded on the most reasonable grounds. When I call this the most mighty

state in the union, do I not speak the truth? Does not Virginia surpass every state in the union, in number of inhabitants, extent of territory, felicity of position, and affluence and wealth? Some infatuation hangs over men's minds, that they will inconsiderately precipitate into measures the most important, and give not a moment's deliberation to others, nor pay any respect to their opinions. Is this federalism? Are these the beloved effects of the federal spirit, that its votaries will never accede to the just propositions of others? Sir, were there nothing objectionable in it but that, I would vote against it. I desire to have nothing to do with such men as will obstinately refuse to change their opinions. Are our opinions not to be regarded? I hope that you will recollect, that you are going to join with men who will pay no respect even to this state.

Switzerland consists of thirteen cantons expressly confederated for national defence. They have stood the shock of four hundred years: that country has enjoyed internal tranquillity most of that long period. Their dissensions have been, comparatively to those of other countries, very few. What has passed in the neighboring countries?—wars, dissensions and intrigues—Germany involved in the most deplorable civil war thirty years successively, continually convulsed with intestine divisions, and harassed by foreign wars—France with her mighty monarchy perpetually at war. Compare the peasants of Switzerland with those of any other mighty nation: you will find them far more happy; for one civil war among them, there have been five or six among other nations: their attachment to their country, and to freedom, their resolute intrepidity in their defence, the consequent security and happiness which they have enjoyed, and the respect and awe which these things produced in their bordering nations, have signalized those republicans. Their valor, sir, has been active; every thing that sets in motion the springs of the human heart, engaged them to the protection of their in-



estimable privileges. They have not only secured their own liberty, but have been the arbiters of the fate of other people. Here, sir, contemplate the triumph of republican governments over the pride of monarchy. I acknowledge, sir, that the necessity of national defence has prevailed in invigorating their councils and arms, and has been, in a considerable degree, the means of keeping these honest people together. But, sir, they have had wisdom enough to keep together and render themselves formidable. Their heroism is proverbial. They would heroically fight for their government, and their laws. One of the illumined sons of these times would not fight for those objects. Those virtuous and simple people have not a mighty and splendid president, nor enormously expensive navies and armies to support. No, sir, those brave republicans have acquired their reputation no less by their undaunted intrepidity, than by the wisdom of their frugal and economical policy. Let us follow their example, and be equally happy. The honorable member advises us to adopt a measure which will destroy our bill of rights: for, after hearing his picture of nations, and his reasons for abandoning all the powers retained to the states by the confederation, I am more firmly persuaded of the impropriety of adopting this new plan in its present shape.

I had doubts of the power of those who went to the convention; but now we are possessed of it, let us examine it. When we trusted the great object of revising the confederation to the greatest, the best and most enlightened of our citizens, we thought their deliberations would have been solely confined to that revision. Instead of this, a new system, totally different in its nature, and vesting the most extensive powers in Congress, is presented. Will the ten men you are to send to Congress, be more worthy than those seven were? If power grew so rapidly in their hands, what may it not do in the hands of others? If those who go from

this state will find power accompanied with temptation. our situation must be truly critical. When about forming a government, if we mistake the principles, or commit any other error, the very circumstance promises that power will be abused. The greatest caution and circumspection are therefore necessary: nor does this proposed system in its investigation here, deserve the least charity.

The honorable member says, that the national government is without energy. I perfectly agree with him: and when he cried out union, I agreed with him: but I tell him not to mistake the end for the means. The end is union; the most capital means, I suppose, are an army and navy: on a supposition I will acknowledge this; still the bare act of agreeing to that paper, though it may have an amazing influence, will not pay our millions. There must be things to pay debts. What these things are, or how they are to be produced, must be determined by our political wisdom and economy.

The honorable gentleman alledges, that previous amendments will prevent the junction of our riches from producing great profits and emoluments, (which would enable us to pay our public debts,) by excluding us from the union. I believe, sir, that a previous ratification of a system notoriously and confessedly defective, will endanger our riches; our liberty; our all. Its defects are acknowledged; they cannot be denied. The reason offered by the honorable gentleman for adopting this defective system, is the adoption by eight states. I say, sir, that, if we present nothing but what is reasonable in the shape of amendments, they will receive us. Union is as necessary for them as for us. Will they then be so unreasonable as not to join us? If such be their disposition, I am happy to know it in time.

The honorable member then observed, that nations will expend millions for commercial advantages: that is, they will deprive you of every advantage if they can.



Apply this another way. Their cheaper way, instead of laying out millions in making war upon you, will be to corrupt your senators. I know that if they be not above all price, they may make a sacrifice of our commercial interests. They may advise your president to make a treaty that will not only sacrifice all your commercial interests, but throw prostrate your bill of rights. Does he fear that their ships will outnumber ours on the ocean, or that nations, whose interests come in contrast with ours, in the progress of their guilt, will perpetrate the vilest expedients to exclude us from a participation in commercial advantages? Does he advise us, in order to avoid this evil, to adopt a constitution, which will enable such nations to obtain their ends by the more easy mode of contaminating the principles of our senators? Sir, if our senators will not be corrupted, it will be because they will be good men; and not because the constitution provides against corruption; for there is no real check secured in it, and the most abandoned and profligate acts may with impunity be committed by them.

With respect to Maryland, what danger from thence? I know none. I have not heard of any hostility premeditated or committed. Nine tenths of the people have not heard of it. Those who are so happy as to be illumined, have not informed their fellow-citizens of it. I am so valiant as to say, that no danger can come from that source, sufficient to make me abandon my republican principles. The honorable gentleman ought to have recollected, that there were no tyrants in America, as there are in Europe: the citizens of republican borders are only terrible to tyrants: instead of being dangerous to one another, they mutually support one another's liberties. We might be confederated with the adopting states, without ratifying this system. No form of government renders a people more formidable. A confederacy of states joined together, becomes strong as the United Netherlands. The government of Holland, (execrated

as it is,) proves that the present confederation is adequate to every purpose of human association. There are seven provinces confederated together for a long time, containing numerous opulent cities and many of the finest ports in the world. The recollection of the situation of that country, would make me execrate monarchy. The singular felicity and success of that people, are unparalleled; freedom has done miracles there in reclaiming land from the ocean. It is the richest spot on the face of the globe. Have they no men or money? Have they no fleets or armies? Have they no arts or sciences among them? How did they repel the attacks of the greatest nations in the world? How have they acquired their amazing influence and power? Did they consolidate government, to effect these purposes as we do? No, sir, they have triumphed over every obstacle and difficulty, and have arrived at the summit of political felicity, and of uncommon opulence, by means of a confederacy; that very government which gentlemen affect to despise. They have, sir, avoided a consolidation as the greatest of evils. They have lately, it is true, made one advance to that fatal progression. This misfortune burst on them by iniquity and artifice. That stadtholder, that executive magistrate, contrived it, in conjunction with other European nations. It was not the choice of the people. Was it owing to his energy that this happened? If two provinces have paid nothing, what have not the rest done? And have not these two provinces made other exertions? Ought they to avoid this inconvenience, to have consolidated their different states, and have a ten miles square? Compare that little spot, nurtured by liberty, with the fairest country in the world. Does not Holland possess a powerful navy and army, and a full treasury? They did not acquire these by debasing the principles and trampling on the rights of their citizens. Sir, they acquired these by their industry, economy, and by the freedom of their government. Their commerce is the



most extensive in Europe : their credit is unequalled ; their felicity will be an eternal monument of the blessings of liberty ; every nation in Europe is taught by them what they are, and what they ought to be. The contrast between those nations and this happy people, is the most splendid spectacle for republicans : the greatest cause of exultation and triumph to the sons of freedom. While other nations, precipitated by the rage of ambition or folly, have, in the pursuit of the most magnificent projects, rivetted the fetters of bondage on themselves and their descendants, these republicans have secured their political happiness and freedom. Where is there a nation to be compared to them ? Where is there now, or where was there ever a nation, of so small a territory, and so few in number, so powerful, so wealthy, so happy ? What is the cause of this superiority ? Liberty, sir, the freedom of their government. Though they are now unhappily in some degree consolidated, yet they have my acclamations, when put in contrast with those millions of their fellow-men who lived and died slaves. The dangers of a consolidation ought to be guarded against in this country. I shall exert my poor talents to ward them off. Dangers are to be apprehended in whatever manner we proceed : but those of a consolidation are the most destructive. Let us leave no expedient untried to secure happiness ; but whatever be our decision, I am consoled, if American liberty will remain entire, only for half a century ; and I trust that mankind in general, and our posterity in particular, will be compensated for every anxiety we now feel.

Another gentleman tells us, that no inconvenience will result from the exercise of the power of taxation by the general government ; that two shillings out of ten may be saved by the impost ; and that four shillings may be paid to the federal collector, and four to the state collector. A change of government will not pay money. If from the probable amount of the impost, you take the enormous and extravagant expenses, which

will certainly attend the support of this great consolidated government, I believe you will find no reduction of the public burdens by this new system. The splendid maintenance of the president and of the members of both houses; and the salaries and fees of the swarm of officers and dependants on the government, will cost this continent immense sums. Double sets of collectors will double the expense. To these are to be added oppressive excise-men and custom-house officers. Sir, the people have an hereditary hatred to custom-house officers. The experience of the mother country leads me to detest them. They have introduced their baneful influence into the administration, and destroyed one of the most beautiful systems that ever the world saw. Our forefathers enjoyed liberty there, while that system was in its purity, but it is now contaminated by influence of every kind.

The style of the government, (we the people,) was introduced, perhaps, to recommend it to the people at large; to those citizens who are to be levelled and degraded to the lowest degree, who are likened to a herd, and who, by the operation of this blessed system, are to be transformed from respectable, independent citizens, to abject, dependent subjects or slaves. The honorable gentleman has anticipated what we are to be reduced to, by degradingly assimilating our citizens to a herd.

[Here Mr. Randolph rose, and declared that he did not use that word to excite any odium, but merely to convey the idea of a multitude.]

Mr. Henry replied, that it made a deep impression on his mind, and that he verily believed, that system would operate as he had said. [He then continued]—I will exchange that abominable word for requisitions; requisitions which gentlemen affect to despise, have nothing degrading in them. On this depends our political prosperity. I never will give up that darling word, requisitions; my country may give it up; a majority may wrest it from me, but I will never give it up



till my grave. Requisitions are attended with one singular advantage. They are attended by deliberation. They secure to the states the benefit of correcting oppressive errors. If our assembly thought requisitions erroneous, if they thought the demand was too great, they might at least supplicate Congress to reconsider, that it was a little too much. The power of direct taxation was called by the honorable gentleman the soul of the government: another gentleman called it the lungs of the government. We all agree, that it is the most important part of the body politic. If the power of raising money be necessary for the general government, it is no less so for the states. If money be the vitals of Congress, is it not precious for those individuals from whom it is to be taken? Must I give my soul, my lungs, to Congress? Congress must have our souls; the state must have our souls. This is dishonorable and disgraceful. These two co-ordinate, interfering, unlimited powers of harassing the community, are unexampled—unprecedented in history: they are the visionary projects of modern politicians: tell me not of imaginary means, but of reality: this political solecism will never tend to the benefit of the community. It will be as oppressive in practice as it is absurd in theory. If you part from this, which the honorable gentleman tells you is the soul of Congress, you will be inevitably ruined. I tell you, they shall not have the soul of Virginia. They tell us, that one collector may collect the federal and state taxes. The general government being paramount to the state legislatures, if the sheriff is to collect for both—his right hand for the Congress, his left for the state—his right hand being paramount over the left, his collections will go to Congress. We will have the rest. Deficiencies in collections will always operate against the states. Congress being the paramount, supreme power, must not be disappointed. Thus Congress will have an unlimited, unbounded command over the soul of this commonwealth. After satisfying their uncontrolled

demands, what can be left for the states? Not a sufficiency even to defray the expense of their internal administration. They must therefore glide imperceptibly and gradually out of existence. This, sir, must naturally terminate in a consolidation. If this will do for other people, it never will do for me.

If we are to have one representative for every thirty thousand souls, it must be by implication. The constitution does not positively secure it. Even say it is a natural implication, why not give us a right to that proportion in express terms, in language that could not admit of evasions or subterfuges? If they can use implication for us, they can also use implication against us. We are giving power; they are getting power: judge then, on which side the implication will be used. When we once put it in their option to assume constructive power, danger will follow. Trial by jury, and liberty of the press, are also on this foundation of implication. If they encroach on these rights, and you give your implication for a plea, you are cast; for they will be justified by the last part of it, which gives them full power "To make all laws which shall be necessary and proper to carry their powers into execution." Implication is dangerous, because it is unbounded: if it be admitted at all, and no limits be prescribed, it admits of the utmost extension. They say, that every thing that is not given is retained. The reverse of the proposition is true by implication. They do not carry their implication so far when they speak of the general welfare. No implication when the sweeping clause comes. Implication is only necessary when the existence of privileges is in dispute. The existence of powers is sufficiently established. If we trust our dearest rights to implication, we shall be in a very unhappy situation.

Implication in England has been a source of dissension. There has been a war of implication between the king and people. For one hundred years did the mother country struggle under the uncertainty of im-



plication. The people insisted that their rights were implied: the monarch denied the doctrine. Their bill of rights in some degree terminated the dispute. By a bold implication, they said they had a right to bind us in all cases whatsoever. This constructive power we opposed, and successfully. Thirteen or fourteen years ago, the most important thing that could be thought of, was to exclude the possibility of construction and implication. These, sir, were then deemed perilous. The first thing that was thought of, was a bill of rights. We were not satisfied with your constructive argumentative rights.

Mr. Henry then declared, a bill of rights indispensably necessary; that a general positive provision should be inserted in the new system, securing to the states and the people, every right which was not conceded to the general government; and that every implication should be done away. It being now late, he concluded by observing, that he would resume the subject another time.

On the 9th, Mr. Henry continued his remarks as follows :

MR. CHAIRMAN,

I find myself again constrained to trespass on the patience of this committee. I wish there was a prospect of union in our sentiments; so much time would not then be taken up. But when I review the magnitude of the subject under consideration, and of the dangers which appear to me in this new plan of government, and compare thereto my poor abilities to secure our rights, it will take much more time, in my poor unconnected way, to traverse the objectionable parts of it; there are friends here who will be abler than myself, to make good these objections which to us appear well founded. If we recollect, on last Saturday, I made some observations on some of those dangers, which these gentlemen would fain persuade us hang over the citizens of this commonwealth, to induce us to change the government, and adopt the

new plan. Unless there be great and awful dangers, the change is dangerous, and the experiment ought not to be made. In estimating the magnitude of these dangers, we are obliged to take a most serious view of them, to feel them, to handle them, and to be familiar with them. It is not sufficient to feign mere imaginary dangers: there must be a dreadful reality. The great question between us is, does that reality exist? These dangers are partially attributed to bad laws, execrated by the community at large. It is said the people wish to change the government. I should be happy to meet them on that ground. Should the people wish to change it, we should be innocent of the dangers. It is a fact, that the people do not wish to change their government. How am I to prove it? It will rest on my bare assertion, unless supported by an internal conviction in men's breasts. My poor say-so is a mere non-entity. But, sir, I am persuaded that four fifths of the people of Virginia must have amendments to the new plan, to reconcile them to a change of their government. Our assertions form but a slippery foundation for the people to rest their political salvation on. No government can flourish unless it be founded on the affection of the people. Unless gentlemen can be sure, that this new system is founded on that ground, they ought to stop their career.

I will not repeat what the gentlemen say, but will mention one thing. There is a dispute between us and the Spaniards, about the right of navigating the Mississippi. This dispute has sprung from the federal government. I wish a great deal to be said on this subject. I wish to know the origin and progress of the business, as it would probably unfold great dangers. In my opinion, the preservation of that river calls for our most serious consideration. It has been agitated in Congress. Seven states have voted so as that it is known to the Spaniards, that under our existing system, the Mississippi shall be taken from them. Seven states wished to relinquish this river to them.



The six southern states opposed it. Seven states not being sufficient to convey it away, it remains now ours. If I am wrong, there are a number on this floor, who can contradict the facts; I will readily retract. This new government, I conceive, will enable those states, who have already discovered their inclination that way, to give away this river. Will the honorable gentleman advise us to relinquish this inestimable navigation, and place formidable enemies to our backs? This weak, this poor confederation cannot secure us. We are resolved to take shelter under the shield of federal authority in America. The southern parts of America have been protected by that weakness so much execrated. I hope this will be explained. I was not in Congress when these transactions took place. I may not have stated every fact. I may have misrepresented matters. I hope to be fully acquainted with every thing relative to the subject. Let us hear how the great and important right of navigating that river has been attended to; and whether I am mistaken in my opinion, that federal measures will lose it to us forever. If a bare majority of Congress can make laws, the situation of our western citizens is dreadful.

We are threatened with danger for the non-payment of the debt due to France. We have information from an illustrious citizen of Virginia, who is now in Paris, which disproves the suggestions of such danger. This citizen has not been in the airy regions of theoretic speculation; our ambassador is this worthy citizen. The ambassador of the United States of America, is not so despised as the honorable gentleman would make us believe. A servant of a republic is as much respected as that of a monarch. The honorable gentleman tells us, that hostile fleets are to be sent to make reprisals upon us; our ambassador tells you, that the king of France has taken into consideration, to enter into commercial regulations on reciprocal terms with us, which will be of peculiar advantage to us. Does this look like hostility? I might go fur-

ther; I might say, not from public authority, but good information, that his opinion is, that you reject this government. His character and abilities are in the highest estimation; he is well acquainted, in every respect, with this country; equally so with the policy of the European nations. This illustrious citizen advises you to reject this government, till it be amended. His sentiments coincide entirely with ours. His attachment to, and services done for this country, are well known. At a great distance from us, he remembers and studies our happiness. Living amidst splendor and dissipation, he thinks yet of bills of rights—thinks of those little despised things called maxims. Let us follow the sage advice of this common friend of our happiness. It is little usual for nations to send armies to collect debts. The house of Bourbon, that great friend of America, will never attack her for the unwilling delay of payment. Give me leave to say, that Europe is too much engaged about objects of greater importance to attend to us. On that great theatre of the world, the little American matters vanish. Do you believe, that the mighty monarch of France, beholding the greatest scenes that ever engaged the attention of a prince of that country, will divert himself from those important objects, and now call for a settlement of accounts with America? This proceeding is not warranted by good sense. The friendly disposition to us, and the actual situation of France, render the idea of danger from that quarter absurd. Would this countryman of ours be fond of advising us to a measure which he knew to be dangerous—and can it be reasonably supposed, that he can be ignorant of any premeditated hostility against this country? The honorable gentleman may suspect the account, but I will do our friend the justice to say that he would warn us of any danger from France.

Do you suppose the Spanish monarch will risk a contest with the United States, when his feeble colonies are exposed to them? Every advance the people



here make to the westward, makes him tremble for Mexico and Peru. Despised as we are among ourselves under our present government, we are terrible to that monarchy. If this be not a fact, it is generally said so.

We are in the next place frightened by dangers from Holland. We must change our government to escape the wrath of that republic. Holland groans under a government like this new one. A stadtholder, sir, a Dutch president has brought on that country, miseries which will not permit them to collect debts with fleets or armies. The wife of a Dutch stadtholder brought one hundred thousand men against that republic, and prostrated all opposition. This president will bring miseries on us like those of Holland. Such is the condition of European affairs, that it would be unsafe for them to send fleets or armies to collect debts. But here, sir, they make a transition to objects of another kind. We are presented with dangers of a very uncommon nature. I am not acquainted with the arts of painting. Some gentlemen have a peculiar talent for them. They are practised with great ingenuity on this occasion. As a counterpart to what we have already been intimidated with, we are told, that some lands have been sold which cannot be found; and that this will bring war on this country. Here the picture will not stand examination. Can it be supposed, that if a few land speculators and jobbers have violated the principles of probity, that it will involve this country in war? Is there no redress to be otherwise obtained, even admitting the delinquents and sufferers to be numerous? When gentlemen are thus driven to produce imaginary dangers, to induce this convention to assent to this change, I am sure it will not be uncandid to say, that the change itself is really dangerous. Then the Maryland compact is broken, and will produce perilous consequences. I see nothing very terrible in this. The adoption of the new system will not remove the evil. Will they forfeit good neighborhood with us, be-

cause the compact is broken? Then the disputes concerning the Carolina line are to involve us in dangers. A strip of land running from the westward of the Allegany to the Mississippi, is the subject of this pretended dispute. I do not know the length or breadth of this disputed spot. Have they not regularly confirmed our right to it and relinquished all claims to it? I can venture to pledge, that the people of Carolina will never disturb us. The strength of this despised country has settled an immense tract of country to the westward. Give me leave to remark, that the honorable gentleman's observations on our frontiers, north and south, east and west, are all inaccurate.

Will Maryland fight against this country for seeking amendments? Were there not sixty members in that state who went in quest of amendments? Sixty against eight or ten were in favor of pursuing amendments. Shall they fight us for doing what they themselves have done? They have sought amendments, but differently from the manner in which I wish amendments to be got. The honorable gentleman may plume himself on this difference. Will they fight us for this dissimilarity? Will they fight us for seeking the object they seek themselves? When they do, it will be time for me to hold my peace. Then, sir, comes Pennsylvania, in terrible array. Pennsylvania is to go in conflict with Virginia. Pennsylvania has been a good neighbor heretofore. She is federal—something terrible: Virginia cannot look her in the face. If we sufficiently attend to the actual situation of things, we will conclude, that Pennsylvania will do what we do. A number of that country are strongly opposed to it. Many of them have lately been convinced of its fatal tendency. They are disgorged of their federalism. I beseech you to bring this matter home to yourselves. Was there a possibility for the people of that state to know the reasons of adopting that system or understand its principles, in so very short a period after its formation? This is the middle of June. Those



transactions happened last August. The matter was circulated by every effort of industry, and the most precipitate measures taken to hurry the people into an adoption. Yet now, after having had several months since to investigate it, a very large part of this community—a very great majority of this community, do not understand it. I have heard gentlemen of respectable abilities declare they did not understand it. If after great pains, men of high learning, who have received the aid of a regular education, do not understand it; if the people of Pennsylvania understood it in so short a time, it must have been from intuitive understandings, and uncommon acuteness of perception. Place yourselves in their situation; would you fight your neighbors for considering this great and awful matter? If you wish for real amendments, such as the security of the trial by jury, it will reach the hearts of the people of that state. Whatever may be the disposition of the aristocratical politicians of that country, I know there are friends of human nature in that state. If so, they will never make war on those who make professions of what they are attached to themselves.

As to the danger arising from borderers, it is mutual and reciprocal. If it be dangerous for Virginia, it is equally so for them. It will be their true interest to be united with us. The danger of our being their enemies, will be a prevailing argument in our favor. It will be as powerful to admit us into the union, as a vote of adoption without previous amendments could possibly be.

Then the savage Indians are to destroy us. We cannot look them in the face. The danger is here divided; they are as terrible to the other states as to us: but, sir, it is well known that we have nothing to fear from them. Our back settlers are considerably stronger than they, and their superiority increases daily. Suppose the states to be confederated all around us, what we want in number, we shall make up

otherwise. Our compact situation and natural strength will secure us. But to avoid all dangers, we must take shelter under the federal government. Nothing gives a decided importance but this federal government. You will sip sorrow, according to the vulgar phrase, if you want any other security than the laws of Virginia.

A number of characters of the greatest eminence in this country, object to this government, for its consolidating tendency. This is not imaginary. It is a formidable reality. If consolidation proves to be as mischievous to this country, as it has been to other countries, what will the poor inhabitants of this country do? This government will operate like an ambuscade. It will destroy the state governments, and swallow up the liberties of the people, without giving them previous notice. If gentlemen are willing to run the hazard, let them run it; but I shall exculpate myself by my opposition, and monitory warnings within these walls. But then comes paper money. We are at peace on this subject. Though this is a thing which that mighty federal convention had no business with, yet I acknowledge that paper money would be the bane of this country. I detest it. Nothing can justify a people in resorting to it, but extreme necessity. It is at rest, however, in this commonwealth. It is no longer solicited or advocated.

Sir, I ask you, and every other gentleman who hears me, if he can restrain his indignation at a system, which takes from the state legislatures the care and preservation of the interests of the people; one hundred and eighty representatives, the choice of the people of Virginia, cannot be trusted with their interests. They are a mobbish, suspected herd. This country has not virtue enough to manage its own internal interests. These must be referred to the chosen ten. If we cannot be trusted with the private contracts of the citizens, we must be depraved indeed. If he can prove, that, by one uniform system of abandoned principles, the legislature has betrayed the rights of the peo-



ple, then let us seek another shelter. So degrading an indignity—so flagrant an outrage on the states—so vile a suspicion is humiliating to my mind, and many others.

Will the adoption of this new plan pay our debts? This, sir, is a plain question. It is inferred, that our grievances are to be redressed, and the evils of the existing system to be removed by the new constitution. Let me inform the honorable gentleman, that no nation ever paid its debts by a change of government, without the aid of industry. You never will pay your debts but by a radical change of domestic economy. At present, you buy too much, and make too little to pay. Will this new system promote manufactures, industry and frugality? If, instead of this, your hopes and designs will be disappointed, you relinquish a great deal, and hazard infinitely more for nothing. Will it enhance the value of your lands? Will it lessen your burdens? Will your looms and wheels go to work by the act of adoption? If it will in its consequences produce these things, it will consequently produce a reform, and enable you to pay your debts. Gentlemen must prove it. I am a sceptic—an infidel on this point. I cannot conceive that it will have these happy consequences. I cannot confide in assertions and allegations. The evils that attend us, lie in extravagance and want of industry, and can only be removed by assiduity and economy. Perhaps we shall be told by gentlemen, that these things will happen, because the administration is to be taken from us, and placed in the hands of the luminous few, who will pay different attention, and be more studiously careful than we can be supposed to be.

With respect to the economical operation of the new government, I will only remark, that the national expenses will be increased—if not doubled, it will approach it very near. I might, without incurring the imputation of illiberality or extravagance, say, that the expense will be multiplied tenfold. I might tell you

of a numerous standing army; a great, powerful navy; a long and rapacious train of officers and dependents, independent of the president, senators and representatives, whose compensations are without limitation. How are our debts to be discharged unless the taxes are increased, when the expenses of government are so greatly augmented? The defects of this system are so numerous and palpable, and so many states object to it, that no union can be expected, unless it be amended. Let us take a review of the facts. New Hampshire and Rhode Island have rejected it. They have refused to become federal. New York and North Carolina are reported to be strongly against it. From high authority, give me leave to tell, that New York is in high opposition. Will any gentleman say that North Carolina is not against it? They may say so, but I say that the adoption of it, in those two states, amounts to entire uncertainty. The system must be amended before these four states will accede to it. Besides, there are several other states who are dissatisfied, and wish alterations. Massachusetts has, in decided terms, proposed amendments; but by her previous ratification, has put the cart before the horse. Maryland instituted a committee to propose amendments. It then appears, that two states have actually refused to adopt—two of those who have adopted, have a desire of amending. And there is a probability of its being rejected by New York and North Carolina. The other states have acceded without proposing amendments. With respect to them, local circumstances have, in my judgment, operated to produce its unconditional, instantaneous adoption. The locality of the seat of government, ten miles square, and the seat of justice, with all their concomitant emoluments, operated so powerfully with the first adopting state, that it was adopted without taking time to reflect. We are told that numerous advantages will result from the concentration of the wealth and grandeur of the United States in one happy



spot, to those who will reside in or near it. Prospects of profit and emoluments have a powerful influence on the human mind. We, sir, have no such projects as that of a grand seat of government for thirteen states, and perhaps for one hundred states hereafter. Connecticut and New Jersey have their localities also. New York lies between them. They have no ports, and are not importing states. New York is an importing state, and taking advantage of its situation, makes them pay duties for all the articles of their consumption: thus, these two states being obliged to import all they want, through the medium of New York, pay the particular taxes of that state. I know the force and effect of reasoning of this sort, by experience. When the impost was proposed some years ago, those states which were not importing states, readily agreed to concede to Congress, the power of laying an impost on all goods imported for the use of the continental treasury. Connecticut and New Jersey therefore, are influenced by advantages of trade in their adoption. The amounts of all imposts are to go into one common treasury. This favors adoption by the non-importing states; as they participate in the profits which were before exclusively enjoyed by the importing states. Notwithstanding this obvious advantage to Connecticut, there is a formidable minority there against it. After taking this general review of American affairs, as respecting federalism, will the honorable gentleman tell me, that he can expect union in America? When so many states are pointedly against it; when two adopting states have pointed out, in express terms, their dissatisfaction as it stands; and when there is so respectable a body of men discontented in every state, can the honorable gentleman promise himself harmony, of which he is so fond? If he can, I cannot. To me it appears unequivocally clear, that we shall not have that harmony. If it appears to the other states, that our aversion is founded on just grounds, will they not be willing to indulge us? If disunion will really result

from Virginia's proposing amendments, will they not wish the re-establishment of the union, and admit us, if not on such terms as we prescribe, yet on advantageous terms? Is not union as essential to their happiness, as to ours? Sir, without a radical alteration, the states will never be embraced in one federal pale. If you attempt to force it down men's throats and call it union, dreadful consequences must follow.

He has said a great deal about disunion and the dangers that are to arise from it. When we are on the subject of union and dangers, let me ask, how will his present doctrine hold with what has happened? Is it consistent with that noble and disinterested conduct, which he displayed on a former occasion? Did he not tell us that he withheld his signature? Where then were the dangers which now appear to him so formidable? He saw all America eagerly confiding that the result of their deliberations would remove their distresses. He saw all America acting under the impulses of hope, expectation and anxiety, arising from their situation and their partiality for the members of that convention: yet his enlightened mind, knowing that system to be defective, magnanimously and nobly refused its approbation. He was not led by the illumined—the illustrious few. He was actuated by the dictates of his own judgment; and a better judgment than I can form. He did not stand out of the way of information. He must have been possessed of every intelligence. What alteration have a few months brought about? The internal difference between right and wrong does not fluctuate. It is immutable. I ask this question as a public man, and out of no particular view. I wish, as such, to consult every source of information, to form my judgment on so awful a question. I had the highest respect for the honorable gentleman's abilities. I considered his opinion as a great authority. He taught me, sir, in despite of the approbation of that great federal convention, to doubt



of the propriety of that system. When I found my honorable friend in the number of those who doubted, I began to doubt also. I coincided with him in opinion. I shall be a staunch and faithful disciple of his. I applaud that magnanimity which led him to withhold his signature. If he thinks now differently, he is as free as I am. Such is my situation, that as a poor individual, I look for information every where.

This government is so new, it wants a name. I wish its other novelties were as harmless as this. He told us, we had an American dictator in the year 1781. We never had an American President. In making a dictator, we follow the example of the most glorious, magnanimous and skilful nations. In great dangers this power has been given. Rome had furnished us with an illustrious example. America found a person worthy of that trust: she looked to Virginia for him. We gave a dictatorial power to hands that used it gloriously; and which were rendered more glorious by surrendering it up. Where is there a breed of such dictators? Shall we find a set of American presidents of such a breed? Will the American President come and lay prostrate at the feet of Congress his laurels? I fear there are few men who can be trusted on that head. The glorious republic of Holland has erected monuments to her warlike intrepidity and valor: yet she is now totally ruined by a stadtholder; a Dutch president. The destructive wars into which that nation has been plunged, has since involved her in ambition. The glorious triumphs of Blenheim and Ramillies were not so conformable to the genius, nor so much to the true interest of the republic, as those numerous and useful canals and dykes, and other objects at which ambition spurns. That republic has, however, by the industry of its inhabitants, and policy of its magistrates, suppressed the ill effects of ambition. Notwithstanding two of their provinces have paid nothing, yet I hope the example of Holland will tell us, that we can live happily without changing our present despis-

ed government. Cannot people be as happy under a mild, as under an energetic government? Cannot content and felicity be enjoyed in a republic, as well as in a monarchy, because there are whips, chains and scourges used in the latter? If I am not as rich as my neighbor, if I give my mite, my all, republican forbearance will say, that it is sufficient. So said the honest confederates of Holland: "You are poor; we are rich. We will go on and do better, far better, than be under an oppressive government." Far better will it be for us to continue as we are, than go under that tight, energetic government. I am persuaded of what the honorable gentleman says, that separate confederacies will ruin us. In my judgment, they are evils never to be thought of till a people are driven by necessity. When he asks my opinion of consolidation, of one power to reign over America, with a strong hand, I will tell him, I am persuaded of the rectitude of my honorable friend's opinion, (Mr. Mason,) that one government cannot reign over so extensive a country as this is, without absolute despotism. Compared to such a consolidation, small confederacies are little evils, though they ought to be rucurred to, but in case of necessity. Virginia and North Carolina are despised. They could exist separated from the rest of America. Maryland and Vermont were not overrun when out of the confederacy. Though it is not a desirable object, yet, I trust, that on examination it will be found, that Virginia and North Carolina would not be swallowed up in case it was necessary for them to be joined together.

When we come to the spirit of domestic peace, the humble genius of Virginia has formed a government, suitable to the genius of her people. I believe the hands, that formed the American constitution, triumph in the experiment. It proves, that the man who formed it, and perhaps by accident, did what design could not do in other parts of the world. After all your reforms in government, unless you consult the genius of the



inhabitants, you will never succeed; your system can have no duration. Let me appeal to the candor of the committee, if the want of money be not the source of all our misfortunes. We cannot be blamed for not making dollars. This want of money cannot be supplied by changes in government. The only possible remedy, as I have before asserted, is industry aided by economy. Compare the genius of the people with the government of this country. Let me remark, that it stood the severest conflict, during the war, to which human virtue has ever been called. I call upon every gentleman here to declare, whether the king of England had any subjects so attached to his family and government—so loyal as we were. But the genius of Virginia called us for liberty; called us from those beloved endearments, which, from long habits, we were taught to love and revere. We entertained from our earliest infancy, the most sincere regard and reverence for the mother country. Our partiality extended to a predilection for her customs, habits, manners and laws. Thus inclined, when the deprivation of our liberty was attempted, what did we do? What did the genius of Virginia tell us? “Sell all and purchase liberty.” This was a severe conflict. Republican maxims were then esteemed. Those maxims, and the genius of Virginia, landed you safe on the shore of freedom. On this awful occasion, did you want a federal government? Did federal ideas possess your minds? Did federal ideas lead you to the most splendid victories? I must again repeat the favorite idea, that the genius of Virginia did, and will again lead us to happiness. To obtain the most splendid prize, you did not consolidate. You accomplished the most glorious ends, by the assistance of the genius of your country. Men were then taught by that genius, that they were fighting for what was most dear to them. View the most affectionate father, the most tender mother, operated on by liberty, nobly stimulating their sons, their dearest sons, sometimes their only son, to ad-

vance to the defence of his country. We have seen sons of Cincinnatus, without splendid magnificence or parade, going, with the genius of their great progenitor Cincinnatus, to the plough—men who served their country without ruining it; men who had served it to the destruction of their private patrimonies; their country owing them amazing amounts, for the payment of which no adequate provision was then made. We have seen such men throw prostrate their arms at your feet. They did not call for those emoluments, which ambition presents to some imaginations. The soldiers, who were able to command every thing, instead of trampling on those laws, which they were instituted to defend, most strictly obeyed them. The hands of justice have not been laid on a single American soldier. Bring them into contrast with European veterans—you will see an astonishing superiority over the latter. There has been a strict subordination to the laws. The honorable gentleman's office gave him an opportunity of viewing if the laws were administered so as to prevent riots, routs and unlawful assemblies. From his then situation, he could have furnished us with the instances in which licentiousness trampled on the laws. Among all our troubles, we have paid almost to the last shilling, for the sake of justice: we have paid as well as any state; I will not say better. To support the general government and our own legislature; to pay the interest of the public debts, and defray contingencies, we have been heavily taxed. To add to these things, the distresses produced by paper money, and by tobacco contracts, were sufficient to render any people discontented. These, sir, were great temptations; but in the most severe conflict of misfortunes, this code of laws—this genius of Virginia, call it what you will, triumphed over every thing.

Why did it please the gentleman, (Mr. Corbin,) to bestow such epithets on our country? Have the worms taken possession of the wood, that our strong vessel—our political vessel, has sprung a leak? He



may know better than I, but I consider such epithets to be the most illiberal and unwarrantable aspersions on our laws. The system of laws under which we have lived, has been tried and found to suit our genius. I trust we shall not change this happy system. I cannot so easily take leave of an old friend. Till I see him following after and pursuing other objects, which can pervert the great objects of human legislation, pardon me if I withhold my assent.

Some here speak of the difficulty in forming a new code of laws. Young as we were, it was not wonderful if there was a difficulty in forming and assimilating one system of laws. I shall be obliged to the gentleman, if he would point out those glaring, those great faults. The efforts of assimilating our laws to our genius have not been found altogether vain. I shall pass over some other circumstances which I intended to mention, and endeavor to come to the capital objection, which my honorable friend made. My worthy friend said, that a republican form of government would not suit a very extensive country; but that if a government were judiciously organized and limits prescribed to it; an attention to these principles might render it possible for it to exist in an extensive territory. Whoever will be bold to say, that a continent can be governed by that system, contradicts all the experience of the world. It is a work too great for human wisdom. Let me call for an example. Experience has been called the best teacher. I call for an example of a great extent of country, governed by one government, or Congress, call it what you will. I tell him that a government may be trimmed up according to gentlemen's fancy, but it never can operate; it will be but very short-lived. However disagreeable it may be to lengthen my objections, I cannot help taking notice of what the honorable gentleman said. To me it appears that there is no check in that government. The president, senators and representatives all immediately, or mediately, are the choice of the people.

Tell me not of checks on paper ; but tell me of checks founded on self-love. The English government is founded on self-love. This powerful, irresistible stimulus of self-love has saved that government. It has interposed that hereditary nobility between the king and commons. If the house of lords assists or permits the king to overturn the liberties of the people, the same tyranny will destroy them ; they will therefore keep the balance in the democratic branch. Suppose they see the commons encroach upon the king ; self-love, that great, energetic check, will call upon them to interpose ; for, if the king be destroyed, their destruction must speedily follow. Here is a consideration which prevails in my mind, to pronounce the British government superior, in this respect, to any government that ever was in any country. Compare this with your congressional checks. I beseech gentlemen to consider whether they can say, when trusting power, that a mere patriotic profession will be equally operative and efficacious, as the check of self-love. In considering the experience of ages, is it not seen that fair, disinterested patriotism and professions of attachment to rectitude, have never been solely trusted to by an enlightened, free people. If you depend on your president's and senators' patriotism, you are gone. Have you a resting place like the British government ? Where is the rock of your salvation ? The real rock of political salvation is self-love, perpetuated from age to age in every human breast, and manifested in every action. If they can stand the temptations of human nature, you are safe. If you have a good president, senators and representatives, there is no danger. But can this be expected from human nature ? Without real checks, it will not suffice that some of them are good. A good president, or senator, or representative will have a natural weakness. Virtue will slumber : the wicked will be continually watching : consequently you will be undone. Where are your checks ? You have no hereditary no-



bility—an order of men, to whom human eyes can be cast up for relief: for, says the constitution, there is no title of nobility to be granted; which, by the by, would not have been so dangerous, as the perilous cession of powers contained in that paper: because, as Montesquieu says, when you give titles of nobility, you know what you give; but when you give power, you know not what you give. If you say, that out of this depraved mass, you can collect luminous characters, it will not avail, unless this luminous breed will be propagated from generation to generation; and even then, if the number of vicious characters will preponderate, you are undone. And that this will certainly be the case, is, to my mind, perfectly clear. In the British government, there are real balances and checks; in this system, there are only ideal balances. Till I am convinced that there are actual, efficient checks, I will not give my assent to its establishment. The president and senators have nothing to lose. They have not that interest in the preservation of the government, that the king and lords have in England. They will therefore be regardless of the interests of the people. The constitution will be as safe with one body, as with two. It will answer every purpose of human legislation. How was the constitution of England when only the commons had the power? I need only remark, that it was the most unfortunate era when the country returned to king, lords and commons, without sufficient responsibility in the king. When the commons of England, in the manly language which became free-men, said to their king, you are our servant, then the temple of liberty was complete. From that noble source have we derived our liberty: that spirit of patriotic attachment to one's country, that zeal for liberty, and that enmity to tyranny, which signalized the then champions of liberty, we inherit from our British ancestors. And I am free to own, that if you cannot love a republican government, you may love the British monarchy: for, although the king is not sufficient-

ly responsible, the responsibility of his agents, and the efficient checks interposed by the British constitution, render it less dangerous than other monarchies, or oppressive tyrannical aristocracies. What are their checks of exposing accounts? Their checks upon paper are inefficient and nugatory. Can you search your president's closet? Is this a real check? We ought to be exceedingly cautious in giving up this life, this soul—our money—this power of taxation to Congress. What powerful check is there here to prevent the most extravagant and profligate squandering of the public money? What security have we in money matters? Inquiry is precluded by this constitution. I never wish to see Congress supplicate the states. But it is more abhorrent to my mind to give them an unlimited and unbounded command over our souls, our lives, our purses, without any check or restraint. How are you to keep inquiry alive? How discover their conduct? We are told by that paper, that a regular statement and account of the receipts and expenditures of all public money, shall be published from time to time. Here is a beautiful check! What time? Here is the utmost latitude left. If those who are in Congress please to put that construction upon it, the words of the constitution will be satisfied by publishing those accounts once in one hundred years. They may publish or not, as they please. Is this like the present despised system, whereby the accounts are to be published monthly?

I come now to speak something of requisitions, which the honorable gentleman thought so truly contemptible and disgraceful. That honorable gentleman being a child of the revolution, must recollect with gratitude the glorious effects of requisitions. It is an idea that must be grateful to every American. An English army was sent to compel us to pay money contrary to our consent. To force us by arbitrary and tyrannical coercion to satisfy their unbounded demands. We wished to pay with our own consent.



Rather than pay against our consent, we engaged in that bloody contest, which terminated so gloriously. By requisitions we pay with our own consent; by their means we have triumphed in the most arduous struggle that ever tried the virtue of man. We fought then, for what we are contending now—to prevent an arbitrary deprivation of our property, contrary to our consent and inclination. I shall be told in this place, that those who are to tax us are our representatives. To this I answer, that there is no real check to prevent their ruining us. There is no actual responsibility. The only semblance of a check is the negative power of not re-electing them. This, sir, is but a feeble barrier, when their personal interest, their ambition and avarice come to be put in contrast with the happiness of the people. All checks founded on any thing but self-love, will not avail. This constitution reflects, in the most degrading and mortifying manner, on the virtue, integrity and wisdom of the state legislatures: it presupposes that the chosen few who go to Congress, will have more upright hearts, and more enlightened minds, than those who are members of the individual legislatures. To suppose that ten gentlemen shall have more real substantial merit, than one hundred and seventy, is humiliating to the last degree. If, sir, the diminution of numbers be an augmentation of merit, perfection must centre in one. If you have the faculty of discerning spirits, it is better to point out at once the man who has the most illumined qualities. If ten men be better than one hundred and seventy, it follows of necessity that one is better than ten—the choice is more refined.

Such is the danger of the abuse of implied power, that it would be safer at once to have seven representatives, the number to which we are now entitled, than depend on the uncertain and ambiguous language of that paper. The number may be lessened instead of being increased; and yet by argumentative, constructive, implied power, the proportion of taxes may con-

tinue the same or be increased. Nothing is more perilous than constructive power, which gentlemen are so willing to trust their happiness to.

If sheriffs prove now an over-match for our legislature; if their ingenuity has eluded the vigilance of our laws, how will the matter be amended when they come clothed with federal authority? A strenuous argument offered by gentlemen is, that the same sheriffs may collect for the continental and state treasuries. I have before shown, that this must have an inevitable tendency to give a decided preference to the federal treasury in the actual collections, and to throw all deficiencies on the state. This imaginary remedy for the evil of congressional taxation, will have another oppressive operation. The sheriff comes to-day as a state collector—next day he is federal—how are you to fix him? How will it be possible to discriminate oppressions committed in one capacity, from those perpetrated in the other? Will not his ingenuity perplex the simple, honest planter? This will at least involve in difficulties, those who are unacquainted with legal ingenuity. When you fix him, where are you to punish him? For, I suppose, they will not stay in our courts: they must go to the federal court; for, if I understand that paper right, all controversies arising under that constitution, or under the laws made in pursuance thereof, are to be tried in that court. When gentlemen told us, that this part deserved the least exception, I was in hopes, they would prove that there was plausibility in their suggestions, and that oppression would probably not follow. Are we not told, that it shall be treason to levy war against the United States? Suppose an insult offered to the federal laws at an immense distance from Philadelphia, will this be deemed treason? And shall a man be dragged many hundred miles to be tried as a criminal, for having, perhaps justifiably, resisted an unwarrantable attack upon his person or property? I am not well acquainted with federal jurisprudence; but it ap-



pears to me that these oppressions must result from this part of the plan. It is at least doubtful, and where there is even a possibility of such evils, they ought to be guarded against.

There are to be a number of places fitted out for arsenals and dock-yards in the different states. Unless you sell to Congress such places as are proper for these, within your state, you will not be consistent after adoption; it results therefore clearly that you are to give into their hands, all such places as are fit for strong holds. When you have these fortifications and garrisons within your state, your legislature will have no power over them, though they see the most dangerous insults offered to the people daily. They are also to have magazines in each state; these depositories for arms, though within the state, will be free from the control of its legislature. Are we at last brought to such a humiliating and debasing degradation, that we cannot be trusted with arms for our own defence? There is a wide difference between having our arms in our own possession and under our own direction, and having them under the management of Congress? If our defence be the real object of having those arms, in whose hands can they be trusted with more propriety, or equal safety to us, as in our own? If our legislature be unworthy of legislating for every foot in this state, they are unworthy of saying another word.

The clause which says that Congress shall "provide for arming, organizing and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers," seemed to put the states in the power of Congress. I wished to be informed, if Congress neglected to discipline them, whether the states were not precluded from doing it. Not being favored with a particular answer, I am confirmed in my opinion, that the states have not the power of disciplining them, without recurring to the doctrine of constructive, im-

plied powers. If by implication the states may discipline them, by implication also Congress may officer them; because, in a partition of power, each has a right to come in for part; and because implication is to operate in favor of Congress on all occasions, where their object is the extension of power, as well as in favor of the states. We have not one fourth of the arms that would be sufficient to defend ourselves. The power of arming the militia, and the means of purchasing arms, are taken from the states by the paramount powers of Congress. If Congress will not arm them, they will not be armed at all.

There have been no instances shown of a voluntary cession of power, sufficient to induce me to grant the most dangerous powers: a possibility of their future relinquishment will not persuade me to yield such powers.

Congress, by the power of taxation, by that of raising an army, and by their control over the militia, have the sword in one hand and the purse in the other. Shall we be safe without either? Congress have an unlimited power over both: they are entirely given up by us. Let him candidly tell me, where and when did freedom exist, when the sword and purse were given up by the people? Unless a miracle in human affairs interposed, no nation ever retained its liberty after the loss of the sword and purse. Can you prove by any argumentative deduction, that it is possible to be safe without retaining one of these? If you give them up, you are gone. Give us at least a plausible apology why Congress should keep their proceedings in secret. They have the power of keeping them secret as long as they please; for the provision for a periodical publication is too inexplicit and ambiguous to avail any thing. The expression, from time to time, as I have more than once observed, admits of any extension. They may carry on the most wicked and pernicious of schemes under the dark veil of secrecy. The liberties of a people never were nor ever will be secure, when the transac-



tions of their rulers may be concealed from them. The most iniquitous plots may be carried on against their liberty and happiness. I am not an advocate for divulging indiscriminately all the operations of government, though the practice of our ancestors in some degree justifies it. Such transactions as relate to military operations, or affairs of great consequence, the immediate promulgation of which might defeat the interests of the community, I would not wish to be published, till the end which required their secrecy should have been effected. But to cover, with the veil of secrecy, the common routine of business, is an abomination in the eyes of every intelligent man, and every friend to his country.

[Mr. Henry then, in a very animated manner, expatiated on the evil and pernicious tendency of keeping secret the common proceedings of government, and said, that it was contrary to the practice of other free nations. The people of England, he asserted, had gained immortal honor, by the manly boldness wherewith they divulged to all the world their political disquisitions and operations; and that such a conduct inspired other nations with respect. He illustrated his arguments by several quotations.] He then continued:—

I appeal to this convention, if it would not be better for America to take off the veil of secrecy. Look at us—hear our transactions. If this had been the language of the federal convention, what would have been the result? Such a constitution would not have come out to your utter astonishment, conceding such dangerous powers, and recommending secrecy in the future transactions of government. I believe it would have given more general satisfaction, if the proceedings of that convention had not been concealed from the public eye. This constitution authorizes the same conduct. There is not an English feature in it. The transactions of Congress may be concealed a century from the public consistently with the constitution.

This, sir, is a laudable imitation of the transactions of the Spanish treaty. We have not forgotten with what a thick veil of secrecy those transactions were covered.

We are told that this government, collectively taken, is without an example; that it is national in this part, and federal in that part, &c. We may be amused, if we please, by a treatise of political anatomy. In the brain it is national: the *stamina* are federal—some limbs are federal, others national. The senators are voted for by the state legislatures; so far it is federal. Individuals choose the members of the first branch; here it is national. It is federal in conferring general powers, but national in retaining them. It is not to be supported by the states—the pockets of individuals are to be searched for its maintenance. What signifies it to me, that you have the most curious anatomical description of it in its creation? To all the common purposes of legislation it is a great consolidation of government. You are not to have the right to legislate in any but trivial cases: you are not to touch private contracts: you are not to have the right of having arms in your own defence: you cannot be trusted with dealing out justice between man and man. What shall the states have to do?—Take care of the poor, repair and make highways, erect bridges, and so on and so on. Abolish the state legislatures at once. What purposes should they be continued for? Our legislature will indeed be a ludicrous spectacle—one hundred and eighty men marching in solemn, farcical procession, exhibiting a mournful proof of the lost liberty of their country, without the power of restoring it. But, sir, we have the consolation, that it is a mixed government; that is, it may work sorely on your neck, but you will have some comfort by saying, that it was a federal government in its origin.

I beg gentlemen to consider; lay aside your prejudices—is this a federal government? Is it not a consolidated government for every purpose almost? Is



the government of Virginia a state government, after this government is adopted? I grant that it is a republican government; but for what purposes? For such trivial, domestic considerations, as render it unworthy the name of a legislature. I shall take leave of this political anatomy by observing, that it is the most extraordinary that ever entered into the imagination of man. If our political diseases demand a cure, this is an unheard of medicine. The honorable member, I am convinced, wanted a name for it. Were your health in danger, would you take new medicine? I need not make use of these exclamations; for every member in this committee must be alarmed at making new and unusual experiments in government. Let us have national credit and a national treasury in case of war. You never can want national resources in time of war, if the war be a national one, if it be necessary, and this necessity be obvious to the meanest capacity. The utmost exertions will be used by the people of America in that case. A republic has this advantage over a monarchy, that its wars are generally founded on more just grounds. A republic can never enter into a war, unless it be a national war, unless it be approved of, or desired by the whole community. Did ever a republic fail to use the utmost resources of the community when a war was necessary? I call for an example. I call also for an example, when a republic has been engaged in a war contrary to the wishes of its people. There are thousands of examples where the ambition of its prince has precipitated a nation into the most destructive war. No nation ever withheld power when its object was just and right. I will hazard an observation; I find fault with the paper before you, because the same power that declares war, has the ability to carry it on. Is it so in England? The king declares war: the house of commons gives the means of carrying it on. This is a strong check on the king. He will enter into no war that is unnecessary; for the commons, having the power of withholding

the means, will exercise that power, unless the object of the war be for the interest of the nation. How is it here? The Congress can both declare war and carry it on, and levy your money as long as you have a shilling to pay.

I shall now speak a little of the colonial confederacy which was proposed at Albany. Massachusetts did not give her consent to the project at Albany so as to consolidate with the other colonies. Had there been a consolidation at Albany, where would have been their charter? Would that confederacy have preserved their charter from Britain? The strength and energy of the then designed government would have crushed American opposition.

The American revolution took its origin from the comparative weakness of the British government not being concentrated in one point. A concentration of the strength and interest of the British government in one point, would have rendered opposition to its tyrannies fruitless. For want of that consolidation do we now enjoy liberty, and the privilege of debating at this moment. I am pleased with the colonial establishment. The example, which the honorable member has produced to persuade us to depart from our present confederacy, rivets me to my former opinion, and convinces me that consolidation must end in the destruction of our liberties.

The honorable gentleman has told us of our ingratitude to France. She does not intend to take payment by force. Ingratitude shall not be laid to my charge. I wish to see the friendship between this country and that magnanimous ally perpetuated. Requisitions will enable us to pay the debts we owe to France and other countries. She does not desire us to go from our beloved republican government. The change is inconsistent with our engagements with those nations. It is cried out, that those in opposition wish disunion. This is not true. They are the most strenuous friends to it. This government will clearly operate disunion.



If it be heard on the other side of the Atlantic, that you are going to disunite and dissolve the confederacy, what says France? Will she be indifferent to an event that will so radically affect her treaties with us? Our treaty with her is founded on the confederation—we are bound to her as thirteen states confederated. What will become of the treaty? It is said that treaties will be on a better footing. How so? Will the president, senate and house of representatives be parties to them? I cannot conceive how the treaties can be as binding, if the confederacy is dissolved, as they are now. Those nations will not continue their friendship then; they will become our enemies. I look on the treaties as the greatest pillars of safety. If the house of Bourbon keeps us, we are safe. Dissolve that confederacy—who has you?—The British. Federalism will not protect you from the British. Is a connexion with that country more desirable? I was amazed when gentlemen forgot the friends of America. I hope that this dangerous change will not be effected. It is safe for the French and Spaniards, that we should continue to be thirteen states; but it is not so, that we should be consolidated into one government. They have settlements in America; will they like schemes of popular ambition? Will they not have some serious reflections? You may tell them you have not changed your situation; but they will not believe you. If there be a real check intended to be left on Congress, it must be left in the state governments. There will be some check, as long as the judges are incorrupt. As long as they are upright, you may preserve your liberty. But what will the judges determine when the state and federal authority come to be contrasted? Will your liberty then be secure, when the congressional laws are declared paramount to the laws of your state, and the judges are sworn to support them?

I am constrained to make a few remarks on the absurdity of adopting this system, and relying on the

chance of getting it amended afterwards. When it is confessed to be replete with defects, is it not offering to insult your understandings, to attempt to reason you out of the propriety of rejecting it, till it be amended? Does it not insult your judgments to tell you—adopt first, and then amend? Is your rage for novelty so great, that you are first to sign and seal, and then to retract? Is it possible to conceive a greater solecism? I am at a loss what to say. You agree to bind yourselves hand and foot—for the sake of what? Of being unbound. You go into a dungeon—for what? To get out. Is there no danger when you go in, that the bolts of federal authority shall shut you in? Human nature never will part from power. Look for an example of a voluntary relinquishment of power, from one end of the globe to another—you will find none. Nine tenths of our fellow-men have been, and are now, depressed by the most intolerable slavery, in the different parts of the world; because the strong hand of power has bolted them in the dungeon of despotism. Review the present situation of the nations of Europe, which is pretended to be the freest quarter of the globe. Cast your eyes on the countries called free there. Look at the country from which we are descended, I beseech you; and although we are separated by everlasting, insuperable partitions, yet there are some virtuous people there who are friends to human nature and liberty. Look at Britain; see there the bolts and bars of power; see bribery and corruption defiling the fairest fabric that ever human nature reared. Can a gentleman, who is an Englishman, or who is acquainted with the English history, desire to prove these evils? See the efforts of a man descended from a friend of America; see the efforts of that man, assisted even by the king, to make reforms. But you find the faults too strong to be amended. Nothing but bloody war can alter them. See Ireland: that country groaned from century to century, without getting their government amended. Previous adoption was the fashion there. They sent for amendments from time to time, but



never obtained them, though pressed by the severest oppression, till eighty thousand volunteers demanded them sword in hand—till the power of Britain was prostrate; when the American resistance was crowned with success. Shall we do so? If you judge by the experience of Ireland, you must obtain the amendments as early as possible. But, I ask you again, where is the example that a government was amended by those who instituted it? Where is the instance of the errors of a government rectified by those who adopted them?

I shall make a few observations to prove, that the power over elections, which is given to Congress, is contrived by the federal government; that the people may be deprived of their proper influence in the government, by destroying the force and effect of their suffrages. Congress is to have a discretionary control over the time, place and manner of elections. The representatives are to be elected consequently when and where they please. As to the time and place gentlemen have attempted to obviate the objection by saying, that the time is to happen once in two years, and that the place is to be within a particular district, or in the respective counties. But how will they obviate the danger of referring the manner of election to Congress? Those illumined *genii* may see that this may not endanger the rights of the people; but to my unenlightened understanding, it appears plain and clear, that it will impair the popular weight in the government. Look at the Roman history. They had two ways of voting: the one by tribes, and the other by centuries. By the former, numbers prevailed: in the latter, riches preponderated. According to the mode prescribed, Congress may tell you, that they have a right to make the vote of one gentleman go as far as the votes of one hundred poor men. The power over the manner admits of the most dangerous latitude. They may modify it as they please. They may regulate the number of votes by the quantity of

property, without involving any repugnancy to the constitution. I should not have thought of this trick or contrivance, had I not seen how the public liberty of Rome was trifled with by the mode of voting by centuries, whereby one rich man had as many votes as a multitude of poor men. The plebeians were trampled on till they resisted. The patricians trampled on the liberties of the plebeians, till the latter had spirit to assert their right to freedom and equality. The result of the American mode of election may be similar. Perhaps I shall be told, that I have gone through the regions of fancy; that I deal in noisy exclamations, and mighty professions of patriotism. Gentlemen may retain their opinions; but I look on that paper as the most fatal plan, that could possibly be conceived to enslave a free people. If such be your rage for novelty, take it and welcome, but you never shall have my consent. My sentiments may appear extravagant, but I can tell you, that a number of my fellow-citizens have kindred sentiments; and I am anxious, if my country should come into the hands of tyranny, to exculpate myself from being in any degree the cause; and to exert my faculties to the utmost to extricate her. Whether I am gratified or not in my beloved form of government, I consider that the more she is plunged into distress, the more it is my duty to relieve her. Whatever may be the result, I shall wait with patience till the day may come, when an opportunity shall offer to exert myself in her cause.

But I should be led to take that man for a lunatic, who should tell me to run into the adoption of a government avowedly defective, in hopes of having it amended afterwards. Were I about to give away the meanest particle of my own property, I should act with more prudence and discretion. My anxiety and fears are great, lest America, by the adoption of this system, should be cast into a fathomless abyss.



# SPEECH OF JOHN MARSHALL.

ON THE EXPEDIENCY OF ADOPTING THE

FEDERAL CONSTITUTION,

DELIVERED IN THE CONVENTION OF VIRGINIA, JUNE 20th, 1788



The first and second sections of the third article of the constitution being under consideration, Mr. Marshall addressed the convention as follows :

MR. CHAIRMAN,

THIS part of the plan before us, is a great improvement on that system from which we are now departing. Here are tribunals appointed for the decision of controversies, which were before, either not at all, or improperly provided for. That many benefits will result from this to the members of the collective society, every one confesses. Unless its organization be defective, and so constructed as to injure, instead of accommodating the convenience of the people, it merits our approbation. After such a candid and fair discussion by those gentlemen who support it, after the very able manner in which they have investigated and examined it, I conceived it would be no longer considered as so very defective, and that those, who opposed it, would be convinced of the impropriety of some of their objections. But I perceive they still continue the same opposition. Gentlemen have gone on an idea, that the federal courts will not determine the causes, which may come before them, with the same fairness and impartiality, with which other courts decide.

What are the reasons of this supposition? Do they draw them from the manner in which the judges are chosen, or the tenure of their office? What is it that makes us trust our judges?—Their independence in office and manner of appointment. Are not the judges of the federal court chosen with as much wisdom, as the judges of the state governments? Are they not equally, if not more independent? If so, shall we not conclude that they will decide with equal impartiality and candor? If there be as much wisdom and knowledge in the United States, as in a particular state, shall we conclude that that wisdom and knowledge will not be equally exercised in the selection of the judges?

The principle on which they object to the federal jurisdiction, seems to me to be founded on a belief, that a fair trial will not be had in those courts. If this committee will consider it fully, they will find it has no foundation, and that we are as secure there as any where else. What mischief results from some causes being tried there? Is there not the utmost reason to conclude, that judges wisely appointed, and independent in their office, will never countenance any unfair trial? What are the subjects of its jurisdiction? Let us examine them with an expectation that causes will be as candidly tried there, as elsewhere, and then determine. The objection, which was made by the honorable member who was first up yesterday, (Mr. Mason,) has been so fully refuted, that it is not worth while to notice it. He objected to Congress having power to create a number of inferior courts according to the necessity of public circumstances. I had an apprehension that those gentlemen, who placed no confidence in Congress, would object that there might be no inferior courts. I own that I thought, that those gentlemen would think there would be no inferior courts, as it depended on the will of Congress, but that we should be dragged to the centre of the union. But I did not conceive, that the power of increasing the



number of courts could be objected to by any gentleman, as it would remove the inconvenience of being dragged to the centre of the United States. I own that the power of creating a number of courts is, in my estimation, so far from being a defect, that it seems necessary to the perfection of this system. After having objected to the number and mode, he objected to the subject matter of their cognizance. [Here Mr. Marshall read the 2d section.] These, sir, are the points of federal jurisdiction to which he objects, with a few exceptions. Let us examine each of them with a supposition that the same impartiality will be observed there, as in other courts, and then see if any mischief will result from them. With respect to its cognizance in all cases arising under the constitution and the laws of the United States, he says, that the laws of the United States being paramount to the laws of the particular states, there is no case but what this will extend to. Has the government of the United States power to make laws on every subject? Does he understand it so? Can they make laws affecting the mode of transferring property, or contracts, or claims between citizens of the same state? Can they go beyond the delegated powers? If they were to make a law not warranted by any of the powers enumerated, it would be considered by the judges as an infringement of the constitution which they are to guard. They would not consider such a law as coming under their jurisdiction. They would declare it void. It will annihilate the state courts, says the honorable gentleman. Does not every gentleman here know, that the causes in our courts are more numerous than they can decide, according to their present construction? Look at the dockets; you will find them crowded with suits, which the life of man will not see determined. If some of these suits be carried to other courts, will it be wrong? They will still have business enough. Then there is no danger that particular subjects, small in proportion, being taken out

of the jurisdiction of the state judiciaries, will render them useless and of no effect. Does the gentleman think that the state courts will have no cognizance of cases not mentioned here? Are there any words in this constitution, which exclude the courts of the states from those cases which they now possess? Does the gentleman imagine this to be the case? Will any gentleman believe it? Are not controversies respecting lands, claimed under the grants of different states, the only controversies between citizens of the same state, which the federal judiciary can take cognizance of? The case is so clear, that to prove it would be an useless waste of time. The state courts will not lose the jurisdiction of the causes they now decide. They have a concurrence of jurisdiction with the federal courts in those cases, in which the latter have cognizance.

How disgraceful is it that the state courts cannot be trusted, says the honorable gentleman. What is the language of the constitution? Does it take away their jurisdiction? Is it not necessary that the federal courts should have cognizance of cases arising under the constitution and the laws of the United States? What is the service or purpose of a judiciary, but to execute the laws in a peaceable, orderly manner, without shedding blood, or creating a contest, or availing yourselves of force? If this be the case, where can its jurisdiction be more necessary than here? To what quarter will you look for protection from an infringement on the constitution, if you will not give the power to the judiciary? There is no other body that can afford such a protection. But the honorable member objects to it, because, says he, the officers of the government will be screened from merited punishment by the federal judiciary. The federal sheriff, says he, will go into a poor man's house and beat him, or abuse his family, and the federal court will protect him. Does any gentleman believe this? Is it necessary that the officers shall commit a trespass on



the property or persons of those with whom they are to transact business? Will such great insults on the people of this country be allowable? Were a law made to authorize them, it would be void. The injured man would trust to a tribunal in his neighborhood. To such a tribunal he would apply for redress, and get it. There is no reason to fear that he would not meet that justice there, which his country will be ever willing to maintain. But on appeal, says the honorable gentleman, what chance is there to obtain justice? This is founded on an idea, that they will not be impartial. There is no clause in the constitution, which bars the individual member injured, from applying to the state courts to give him redress. He says, that there is no instance of appeals as to fact in common law cases. The contrary is well known to you, Mr. Chairman, to be the case in this commonwealth. With respect to mills, roads and other cases, appeals lie from the inferior to the superior court, as to fact as well as law. Is it clear, that there can be no case in common law, in which an appeal as to fact might be proper and necessary? Can you not conceive a case where it would be productive of advantages to the people at large, to submit to that tribunal the final determination, involving facts as well as law? Suppose it should be deemed for the convenience of the citizens, that those things which concerned foreign ministers, should be tried in the inferior courts: if justice should be done, the decision would satisfy all. But if an appeal in matters of fact could not be carried to the superior court, then it would result, that such cases could not be tried before the inferior courts, for fear of injurious and partial decisions.

But, sir, where is the necessity of discriminating between the three cases of chancery, admiralty and common law? Why not leave it to Congress? Will it enlarge their powers? Is it necessary for them wantonly to infringe your rights? Have you any thing to apprehend, when they can, in no case, abuse their

power without rendering themselves hateful to the people at large? When this is the case, something may be left to the legislature, freely chosen by ourselves, from among ourselves, who are to share the burdens imposed upon the community, and who can be changed at our pleasure. Where power may be trusted, and there is no motive to abuse it, it seems to me to be as well to leave it undetermined, as to fix it in the constitution.

With respect to disputes between a state and the citizens of another state, its jurisdiction has been decried with unusual vehemence. I hope no gentleman will think that a state will be called at the bar of the federal court. Is there no such case at present? Are there not many cases in which the legislature of Virginia is a party, and yet the state is not sued? It is not rational to suppose, that the sovereign power shall be dragged before a court. The intent is, to enable states to recover claims of individuals residing in other states. I contend this construction is warranted by the words. But, say they, there will be partiality in it, if a state cannot be defendant—if an individual cannot proceed to obtain judgment against a state, though he may be sued by a state. It is necessary to be so, and cannot be avoided. I see a difficulty in making a state defendant, which does not prevent its being plaintiff. If this be only what cannot be avoided, why object to the system on that account? If an individual has a just claim against any particular state, is it to be presumed, that on application to its legislature, he will not obtain satisfaction? But how could a state recover any claim from a citizen of another state, without the establishment of these tribunals?

The honorable member objects to suits being instituted in the federal courts by the citizens of one state against the citizens of another state. Were I to contend, that this was necessary in all cases, and that the government without it would be defective, I should not use my own judgment. But are not the objections to



it carried too far? Though it may not, in general, be absolutely necessary, a case may happen, as has been observed, in which a citizen of one state ought to be able to recur to this tribunal, to recover a claim from the citizen of another state. What is the evil which this can produce? Will he get more than justice there?—The independence of the judges forbids it. What has he to get?—Justice. Shall we object to this, because the citizen of another state can obtain justice without applying to our state courts? It may be necessary with respect to the laws and regulations of commerce, which Congress may make. It may be necessary in cases of debt, and some other controversies. In claims for land it is not necessary, but it is not dangerous. In the court of which state will it be instituted—said the honorable gentleman. It will be instituted in the court of the state where the defendant resides, where the law can come at him, and nowhere else. By the laws of which state will it be determined—said he. By the laws of the state where the contract was made. According to those laws, and those only, can it be decided. Is this a novelty?—No, it is a principle in the jurisprudence of this commonwealth. If a man contracted a debt in the East Indies, and it was sued for here, the decision must be consonant to the laws of that country. Suppose a contract made in Maryland, where the annual interest is at six *per centum*, and a suit instituted for it in Virginia, what interest would be given now, without any federal aid? The interest of Maryland most certainly, and if the contract had been made in Virginia, and suit brought in Maryland, the interest of Virginia must be given without doubt. It is now to be governed by the laws of that state where the contract was made. The laws which governed the contract at its formation, govern it in its decision. To preserve the peace of the union only, its jurisdiction in this case ought to be recurred to. Let us consider, that when citizens of one state carry on trade in another state, much must be due to the one from

the other, as the case between North Carolina and Virginia. Would not the refusal of justice to our citizens, from the courts of North Carolina, produce disputes between the states? Would the federal judiciary swerve from their duty, in order to give partial and unjust decisions?

The objection respecting the assignment of a bond to a citizen of another state, has been fully answered. But suppose it were to be tried as he says, what would be given more than was actually due in the case he mentioned? It is possible, in our courts as they now stand, to obtain a judgment for more than justice. But the court of chancery grants relief. Would it not be so in the federal court? Would not depositions be taken to prove the payments, and if proved, would not the decision of the court be accordingly?

He objects, in the next place, to its jurisdiction in controversies between a state and a foreign state. Suppose, says he, in such a suit, a foreign state is cast, will she be bound by the decision? If a foreign state brought a suit against the commonwealth of Virginia, would she not be barred from the claim if the federal judiciary thought it unjust? The previous consent of the parties is necessary; and, as the federal judiciary will decide, each party will acquiesce. It will be the means of preventing disputes with foreign nations. On an attentive consideration of these courts, I trust every part will appear satisfactory to the committee.

The exclusion of trial by jury in this case, he urged, would prostrate our rights. Does the word court only mean the judges? Does not the determination of a jury, necessarily lead to the judgment of the court? Is there any thing here which gives the judges exclusive jurisdiction of matters of fact? What is the object of a jury trial?—To inform the court of the facts. When a court has cognizance of facts, does it not follow, that they can make inquiry by a jury? It is impossible to be otherwise. I hope that in this country, where impartiality is so much admired, the laws will di-



rect facts to be ascertained by a jury. . But, says the honorable gentleman, the juries in the ten miles square will be mere tools of parties, with which he would not trust his person or property ; which, he says, he would rather leave to the court. Because the government may have a district ten miles square, will no man stay there but the tools and officers of the government ? Will nobody else be found there ? Is it so in any other part of the world, where a government has legislative power ? Are there none but officers and tools of the government of Virginia in Richmond ? Will there not be independent merchants, and respectable gentlemen of fortune, within the ten miles square ? Will there not be worthy farmers and mechanics ? Will not a good jury be found there as well as any where else ? Will the officers of the government become improper to be on a jury ? What is it to the government, whether this man or that man succeeds ? —It is all one thing. Does the constitution say, that juries shall consist of officers, or that the supreme court shall be held in the ten miles square ? It was acknowledged by the honorable member, that it was secure in England. What makes it secure there ? Is it their constitution ? What part of their constitution is there, that the parliament cannot change ? As the preservation of this right is in the hands of parliament, and it has ever been held sacred by them, will the government of America be less honest than that of Great Britain ? Here a restriction is to be found. The jury is not to be brought out of the state. There is no such restriction in that government ; for the laws of parliament decide every thing respecting it. Yet gentlemen tell us, that there is safety there, and nothing here but danger. It seems to me, that the laws of the United States will generally secure trials by a jury of the vicinage, or in such manner as will be most safe and convenient for the people.

But it seems that the right of challenging the jurors.

is not secured in this constitution. Is this done by our own constitution, or by any provision of the English government? Is it done by their magna charta, or bill of rights? This privilege is founded on their laws. If so, why should it be objected to the American constitution, that it is not inserted in it? If we are secure in Virginia, without mentioning it in our constitution, why should not this security be found in the federal court?

The honorable gentleman said much about the quit rents in the Northern Neck. I will refer it to the honorable gentleman himself. Has he not acknowledged that there was no complete title? Was he not satisfied, that the right of the legal representative of the proprietor did not exist at the time he mentioned? If so, it cannot exist now. I will leave it to those gentlemen who come from that quarter. I trust they will not be intimidated on this account, in voting on this question. A law passed in 1782, which secures this. He says that many poor men may be harassed and injured by the representative of lord Fairfax. If he has no right, this cannot be done. If he has this right and comes to Virginia, what laws will his claims be determined by?—By those of this state. By what tribunals will they be determined?—By our state courts. Would not the poor man, who was oppressed by an unjust prosecution, be abundantly protected and satisfied by the temper of his neighbors, and would he not find ample justice? What reason has the honorable member to apprehend partiality or injustice? He supposes, that if the judges be judges of both the federal and state courts, they will incline in favor of one government. If such contests should arise, who could more properly decide them, than those who are to swear to do justice? If we can expect a fair decision any where, may we not expect justice to be done by the judges of both the federal and state governments? But, says the honorable member, laws may be executed



tyrannically. Where is the independency of your judges? If a law be executed tyrannically in Virginia, to what can you trust?—To your judiciary. What security have you for justice?—Their independence. Will it not be so in the federal court?

Gentlemen ask what is meant by law cases, and if they be not distinct from facts. Is there no law arising on cases in equity and admiralty? Look at the acts of assembly; have you not many cases, where law and fact are blended? Does not the jurisdiction in point of law as well as fact, find itself completely satisfied in law and fact? The honorable gentleman says, that no law of Congress can make any exception to the federal, appellate jurisdiction of fact as well as law. He has frequently spoken of technical terms, and the meaning of them. What is the meaning of the term exception? Does it not mean an alteration and diminution? Congress is empowered to make exceptions to the appellate jurisdiction, as to law and fact, of the supreme court. These exceptions certainly go as far as the legislature may think proper, for the interest and liberty of the people. Who can understand this word, exception, to extend to one case as well as the other? I am persuaded, that a reconsideration of this case will convince the gentleman, that he was mistaken. This may go to the cure of the mischief apprehended. Gentlemen must be satisfied, that this power will not be so much abused as they have said.

The honorable member says, that he derives no consolation from the wisdom and integrity of the legislature, because we call them to rectify defects which it is our duty to remove. We ought well to weigh the good and evil before we determine. We ought to be well convinced, that the evil will be really produced before we decide against it. If we be convinced that the good greatly preponderates, though there be small defects in it, shall we give up that which

is really good, when we can remove the little mischief it may contain, in the plain, easy method pointed out in the system itself?

I was astonished when I heard the honorable gentleman say, that he wished the trial by jury to be struck out entirely. Is there no justice to be expected by a jury of our fellow-citizens? Will any man prefer to be tried by a court, when the jury is to be of his countrymen, and probably of his vicinage? We have reason to believe the regulations with respect to juries will be such as shall be satisfactory. Because it does not contain all, does it contain nothing? But I conceive that this committee will see there is safety in the case, and that there is no mischief to be apprehended.

He states a case, that a man may be carried from a federal to an anti-federal corner, (and *vice versa*) where men are ready to destroy him. Is this probable? Is it presumable that they will make a law to punish men who are of different opinions in politics from themselves? Is it presumable, that they will do it in one single case, unless it be such a case as must satisfy the people at large? The good opinion of the people at large must be consulted by their representatives; otherwise mischiefs would be produced, which would shake the government to its foundation. As it is late, I shall not mention all the gentleman's argument; but some parts of it are so glaring, that I cannot pass them over in silence. He says that the establishment of these tribunals, and more particularly in their jurisdiction of controversies between citizens of these states and foreign citizens and subjects, is like a retrospective law. Is there no difference between a tribunal which shall give justice and effect to an existing right, and creating a right that did not exist before? The debt or claim is created by the individual; he has bound himself to comply with it; does the creation of a new court amount to a retrospective law?

We are satisfied with the provision made in this country on the subject of trial by jury. Does our con-



stitution direct trials to be by jury? It is required in our bill of rights, which is not a part of the constitution. Does any security arise from hence? Have you a jury when a judgment is obtained on a replevin bond, or by default? Have you a jury when a motion is made for the commonwealth against an individual; or when a motion is made by one joint obligor against another, to recover sums paid as security? Our courts decide in all these cases, without the intervention of a jury; yet they are all civil cases. The bill of rights is merely recommendatory. Were it otherwise, the consequence would be, that many laws which are found convenient, would be unconstitutional. What does the government before you say? Does it exclude the legislature from giving a trial by jury in civil cases? If it does not forbid its exclusion, it is on the same footing on which your state government stands now. The legislature of Virginia does not give a trial by jury where it is not necessary. But gives it wherever it is thought expedient. The federal legislature will do so too, as it is formed on the same principles.

The honorable gentleman says, that unjust claims will be made, and the defendant had better pay them than go to the supreme court. Can you suppose such a disposition in one of your citizens, as that to oppress another man, he will incur great expenses? What will he gain by an unjust demand? Does a claim establish a right? He must bring his witnesses to prove his claim. If he does not bring his witnesses, the expenses must fall upon him. Will he go on a calculation that the defendant will not defend it, or cannot produce a witness? Will he incur a great deal of expense, from a dependence on such a chance? Those who know human nature, black as it is, must know that mankind are too well attached to their interest to run such a risk. I conceive that this power is absolutely necessary, and not dangerous; that should it be attended by little inconveniences, they will be altered, and that they can have no interest in not altering them.

Is there any real danger? When I compare it to the exercise of the same power in the government of Virginia, I am persuaded there is not. The federal government has no other motive, and has every reason of doing right, which the members of our state legislature have. Will a man on the Eastern Shore, be sent to be tried in Kentucky; or a man from Kentucky be brought to the Eastern Shore to have his trial? A government by doing this would destroy itself. I am convinced, the trial by jury will be regulated in the manner most advantageous to the community.



*L. M. L. p. 244*

## SPEECH OF PATRICK HENRY,

ON THE EXPEDIENCY OF ADOPTING THE

### FEDERAL CONSTITUTION,

DELIVERED IN THE CONVENTION OF VIRGINIA, JUNE 24th, 1788.



The resolution of Mr. Wythe being under consideration, which proposed, "That the committee should ratify the constitution, and that whatsoever amendments might be deemed necessary should be recommended to the consideration of the Congress, which should first assemble under the constitution, to be acted upon according to the mode prescribed therein;" Mr. Henry thus addressed the convention.

MR. CHAIRMAN,

THE proposal of ratification is premature. The importance of the subject requires the most mature deliberation. The honorable member must forgive me for declaring my dissent from it, because, if I understand it rightly, it admits that the new system is defective and most capitally: for immediately after the proposed ratification, there comes a declaration, that the paper before you is not intended to violate any of these three great rights—the liberty of religion, liberty of the press, and the trial by jury. What is the inference, when you enumerate the rights which you are to enjoy? That those not enumerated are relinquished. There are only three things to be retained: religion, freedom of the press, and jury trial. Will not the ratification carry every thing, without excepting these three things? Will not all the world pronounce, that we

intended to give up all the rest? Every thing it speaks of, by way of rights, is comprised in these three things. Your subsequent amendments, only go to these three amendments. I feel myself distressed, because the necessity of securing our personal rights, seems not to have pervaded the minds of men: for many other valuable things are omitted. For instance: general warrants, by which an officer may search suspected places, without evidence of the commission of a fact, or seize any person without evidence of his crime, ought to be prohibited. As these are admitted, any man may be seized; any property may be taken, in the most arbitrary manner, without any evidence or reason. Every thing the most sacred, may be searched and ransacked by the strong hand of power. We have infinitely more reason to dread general warrants here, than they have in England; because there, if a person be confined, liberty may be quickly obtained by the writ of *habeas corpus*. But here, a man living many hundred miles from the judges, may rot in prison before he can get that writ.

Another most fatal omission is, with respect to standing armies. In your bill of rights of Virginia, they are said to be dangerous to liberty, and it tells you, that the proper defence of a free state consists in militia; and so I might go on to ten or eleven things of immense consequence secured in your bill of rights, concerning which that proposal is silent. Is that the language of the bill of rights in England? Is it the language of the American bill of rights, that these three rights, and these only, are valuable? Is it the language of men going into a new government? Is it not necessary to speak of those things before you go into a compact? How do these three things stand? As one of the parties, we declare we do not mean to give them up. This is very dictatorial; much more so, than the conduct which proposes alterations as the condition of adoption. In a compact, there are two parties—one accepting, and another proposing. As



a party, we propose that we shall secure these three things; and before we have the assent of the other contracting party, we go into the compact, and leave these things at their mercy. What will be the consequence? Suppose the other states will call this dictatorial: they will say, Virginia has gone into the government, and carried with her certain propositions, which she says, ought to be concurred in by the other states. They will declare, that she has no right to dictate to other states the conditions on which they shall come into the union. According to the honorable member's proposal, the ratification will cease to be obligatory unless they accede to these amendments. We have ratified it. You have committed a violation, they will say. They have not violated it. We say we will go out of it. You are then reduced to a sad dilemma; to give up these three rights, or leave the government. This is worse than our present confederation, to which we have hitherto adhered honestly and faithfully. We shall be told we have violated it, because we have left it for the infringement and violation of conditions, which they never agreed to be a part of the ratification. The ratification will be complete. The proposal is made by one party. We, as the other, accede to it, and propose the security of these three great rights; for it is only a proposal. In order to secure them, you are left in that state of fatal hostility, which I shall as much deplore as the honorable gentleman. I exhort gentlemen to think seriously, before they ratify this constitution, and persuade themselves that they will succeed in making a feeble effort to get amendments after adoption. With respect to that part of the proposal, which says, that every power not granted, remains with the people; it must be previous to adoption, or it will involve this country in inevitable destruction. To talk of it, as a thing subsequent, not as one of your unalienable rights, is leaving it to the casual opinion of the Congress who shall take up the consideration of that matter. They will not

reason with you about the effect of this constitution. They will not take the opinion of this committee concerning its operation. They will construe it as they please. If you place it subsequently, let me ask the consequences? Among ten thousand implied powers which they may assume, they may, if we be engaged in war, liberate every one of your slaves, if they please. And this must and will be done by men, a majority of whom have not a common interest with you. They will, therefore, have no feeling for your interests.

It has been repeatedly said here, that the great object of a national government, is national defence. That power, which is said to be intended for security and safety, may be rendered detestable and oppressive. If you give power to the general government to provide for the general defence, the means must be commensurate to the end. All the means in the possession of the people, must be given to the government which is entrusted with the public defence. In this state there are two hundred and thirty six thousand blacks, and there are many in several other states: but there are few or none in the northern states, and yet, if the northern states shall be of opinion that our numbers are numberless, they may call forth every national resource. May Congress not say, that every black man must fight? Did we not see a little of this in the last war? We were not so hard pushed, as to make emancipation general: but acts of assembly passed, that every slave who would go to the army should be free. Another thing will contribute to bring this event about; slavery is detested; we feel its fatal effects; we deplore it with all the pity of humanity. Let all these considerations, at some future period, press with full force on the minds of Congress. Let that urbanity, which I trust will distinguish America, and the necessity of national defence—let all these things operate on their minds, and they will search that paper, and see if they have power of manumission. And have they not, sir? Have they not power to provide



for the general defence and welfare? May they not think that these call for the abolition of slavery? May they not pronounce all slaves free, and will they not be warranted by that power? There is no ambiguous implication, or logical deduction. The paper speaks to the point. They have the power in clear unequivocal terms, and will clearly and certainly exercise it. As much as I deplore slavery, I see that prudence forbids its abolition. I deny that the general government ought to set them free, because a decided majority of the states have not the ties of sympathy and fellow-feeling for those whose interest would be affected by their emancipation. The majority of Congress is to the north, and the slaves are to the south. In this situation, I see a great deal of the property of the people of Virginia in jeopardy, and their peace and tranquillity gone away. I repeat it again, that it would rejoice my very soul, that every one of my fellow-beings was emancipated. As we ought with gratitude to admire that decree of heaven, which has numbered us among the free, we ought to lament and deplore the necessity of holding our fellow-men in bondage. But is it practicable, by any human means, to liberate them, without producing the most dreadful and ruinous consequences? We ought to possess them in the manner we have inherited them from our ancestors, as their manumission is incompatible with the felicity of the country. But we ought to soften, as much as possible, the rigor of their unhappy fate. I know that in a variety of particular instances, the legislature, listening to complaints, have admitted their emancipation. Let me not dwell on this subject. I will only add, that this, as well as every other property of the people of Virginia, is in jeopardy, and put in the hands of those who have no similarity of situation with us. This is a local matter, and I can see no propriety in subjecting it to Congress.

With respect to subsequent amendments, proposed by the worthy member, I am distressed when I hear

the expression. It is a new one altogether, and such an one as stands against every idea of fortitude and manliness, in the states, or any one else. Evils admitted, in order to be removed subsequently, and tyranny submitted to, in order to be excluded by a subsequent alteration, are things totally new to me. But I am sure he meant nothing but to amuse the committee. I know his candor. His proposal is an idea dreadful to me. I ask—does experience warrant such a thing from the beginning of the world to this day? Do you enter into a compact of government first, and afterwards settle the terms of the government? It is admitted by every one, that this is a compact. Although the confederation be lost, it is a compact constitution, or something of that nature. I confess I never heard of such an idea before. It is most abhorrent to my mind. You endanger the tranquillity of your country, you stab its repose, if you accept this government unaltered. How are you to allay animosities?—For such there are, great and fatal. He flatters me and tells me, that I could influence the people, and reconcile them to it. Sir, their sentiments are as firm and steady, as they are patriotic. Were I to ask them to apostatize from their native religion, they would despise me. They are not to be shaken in their opinions with respect to the propriety of preserving their rights. You never can persuade them, that it is necessary to relinquish them. Were I to attempt to persuade them to abandon their patriotic sentiments, I should look on myself as the most infamous of men. I believe it to be a fact, that the great body of yeomanry are in decided opposition to it. I may say with confidence, that for nineteen counties adjacent to each other, nine tenths of the people are conscientiously opposed to it. I may be mistaken, but I give you it as my opinion, and my opinion is founded on personal knowledge in some measure, and other good authority. I have not hunted popularity by declaiming to injure this government. Though public fame



might say so, it was not owing to me that this flame of opposition has been kindled and spread. These men never will part with their political opinions. If they should see their political happiness secured to the latest posterity, then indeed they might agree to it. Subsequent amendments will not do for men of this cast. Do you consult the union in proposing them? You may amuse them as long as you please, but they will never like it. You have not solid reality—the hearts and hands of the men who are to be governed.

Have gentlemen no respect to the actual dispositions of the people in the adopting states? Look at Pennsylvania and Massachusetts. These two great states have raised as great objections to that government as we do. There was a majority of only nineteen in Massachusetts. We are told, that only ten thousand were represented in Pennsylvania, although seventy thousand had a right to be represented. Is not this a serious thing? Is it not worth while to turn your eyes for a moment from subsequent amendments, to the situation of your country? Can you have a lasting union in these circumstances? It will be in vain to expect it. But if you agree to previous amendments, you shall have union, firm and solid. I cannot conclude without saying, that I shall have nothing to do with it, if subsequent amendments be determined upon. Oppressions will be carried on as radically by the majority, when adjustments and accommodations will be held up. I say, I conceive it my duty, if this government is adopted before it is amended, to go home. I shall act as I think my duty requires. Every other gentleman will do the same. Previous amendments, in my opinion, are necessary to procure peace and tranquillity. I fear, if they be not agreed to, every movement and operation of government will cease, and how long that baneful thing, civil discord, will stay from this country, God only knows. When men are free from restraint, how long will you suspend their fury? The interval between this and bloodshed, is but a moment.

The licentious and wicked of the community, will seize with avidity every thing you hold. In this unhappy situation, what is to be done? It surpasses my stock of wisdom. If you will, in the language of freemen, stipulate that there are rights which no man under heaven can take from you, you shall have me going along with you, and not otherwise.—[Here Mr. Henry informed the committee, that he had a resolution prepared, to refer a declaration of rights, with certain amendments to the most exceptionable parts of the constitution, to the other states in the confederacy, for their consideration, previous to its ratification. The clerk then read the resolution, the declaration of rights, and amendments, which were nearly the same as those ultimately proposed by the convention, for the consideration of Congress. He then resumed the subject.] I have thus candidly submitted to you, Mr. Chairman, and this committee, what occurred to me as proper amendments to the constitution, and a declaration of rights containing those fundamental, unalienable privileges, which I conceive to be essential to liberty and happiness. I believe, that on a review of these amendments it will still be found, that the arm of power will be sufficiently strong for national purposes, when these restrictions shall be a part of the government. I believe no gentleman, who opposes me in sentiments, will be able to discover that any one feature of a strong government is altered; and at the same time your unalienable rights are secured by them. The government unaltered may be terrible to America, but can never be loved, till it be amended. You find all the resources of the continent may be drawn to a point. In danger, the president may concentrate to a point every effort of the continent. If the government be constructed to satisfy the people and remove their apprehensions, the wealth and strength of the continent will go where public utility shall direct. This government, with these restrictions, will be a strong government united with the privileges of the



people. In my weak judgment, a government is strong, when it applies to the most important end of all governments—the rights and privileges of the people. In the honorable member's proposal, jury trial, the press, and religion, and other essential rights, are not to be given up. Other essential rights—what are they? The world will say, that you intended to give them up. When you go into an enumeration of your rights, and stop that enumeration, the inevitable conclusion is, that what is omitted is intended to be surrendered.

Anxious as I am to be as little troublesome as possible, I cannot leave this part of the subject, without adverting to one remark of the honorable gentleman. He says, that rather than bring the union into danger, he will adopt it with its imperfections. A great deal is said about disunion, and consequent dangers. I have no claim to a greater share of fortitude than others, but I can see no kind of danger. I form my judgment on a single fact alone, that we are at peace with all the world, nor is there any apparent cause of a rupture with any nation in the world. Is it among the American states that the cause of disunion is to be feared? Are not the states using all their efforts for the promotion of union? New England sacrifices local prejudices for the purposes of union. We hear the necessity of the union, and predilection for the union, re-echoed from all parts of the continent: and all at once disunion is to follow! If gentlemen dread disunion, the very thing they advocate will inevitably produce it. A previous ratification will raise insurmountable obstacles to union. New York is an insurmountable obstacle to it, and North Carolina also. They will never accede to it, till it be amended. A great part of Virginia is opposed most decidedly to it, as it stands. This very spirit which will govern us in these three states, will find a kindred spirit in the adopting states. Give me leave to say, that it is very problematical, whether the adopting states can stand on their

own legs. I hear only on one side, but as far as my information goes, there are heart-burnings and animosities among them. Will these animosities be cured by subsequent amendments?

Turn away from America, and consider European politics. The nations there, which can trouble us are France, England and Spain. But at present we know for a certainty, that those nations are engaged in very different pursuits from American conquests. We are told by our intelligent ambassador, that there is no such danger as has been apprehended. Give me leave then to say, that dangers from beyond the Atlantic are imaginary. From these premises then, it may be concluded, that from the creation of the world, to this time, there never was a more fair and proper opportunity than we have at this day to establish such a government as will permanently establish the most transcendent political felicity. Since the revolution there has not been so much experience. Since then, the general interests of America have not been better understood, nor the union more ardently loved, than at this present moment. I acknowledge the weakness of the old confederation. Every man says, that something must be done. Where is the moment more favorable than this? During the war, when ten thousand dangers surrounded us, America was magnanimous. What was the language of the little state of Maryland? "I will have time to consider. I will hold out three years. Let what may come, I will have time to reflect." Magnanimity appeared every where. What was the upshot?—America triumphed. Is there any thing to forbid us to offer these amendments to the other states? If this moment goes away unimproved, we shall never see its return. We now act under a happy system, which says, that a majority may alter the government when necessary. But by the paper proposed, a majority will forever endeavor in vain to alter it. Three fourths may. Is not this the most promising time for securing the necessary al-



terations? Will you go into that government, where it is a principle, that a contemptible minority may prevent an alteration? What will be the language of the majority?—Change the government.—Nay, seven eighths of the people of America may wish the change; but the minority may come with a Roman *Veto*, and object to the alteration. The language of a magnanimous country and of freemen is, till you remove the defects we will not accede. It would be in vain for me to show, that there is no danger to prevent our obtaining those amendments, if you are not convinced already. If the other states will not agree to them, it is not an inducement to union. The language of this paper is not dictatorial, but merely a proposition for amendments. The proposition of Virginia met with a favorable reception before. We proposed that convention which met at Annapolis. It was not called dictatorial. We proposed that at Philadelphia. Was Virginia thought dictatorial? But Virginia is now to lose her pre-eminence. Those rights of equality, to which the meanest individual in the community is entitled, are to bring us down infinitely below the Delaware people. Have we not a right to say, hear our propositions? Why, sir, your slaves have a right to make their humble requests. Those, who are in the meanest occupations of human life, have a right to complain. What do we require? Not pre-eminence, but safety; that our citizens may be able to sit down in peace and security under their own fig-trees. I am confident that sentiments like these will meet with unison in every state; for they will wish to banish discord from the American soil. I am certain that the warmest friend of the constitution, wishes to have fewer enemies—fewer of those who pester and plague him with opposition. I could not withhold from my fellow-citizens any thing so reasonable. I fear you will have no union, unless you re-

move the cause of opposition. Will you sit down contented with the name of union without any solid foundation?

Mr. Henry then concluded, by expressing his hope, that his resolution would be adopted, and added, that if the committee should disapprove of any of his amendments, others might be substituted.



INAUGURAL ADDRESS  
OF  
GEORGE WASHINGTON,  
PRESIDENT OF THE UNITED STATES.

DELIVERED APRIL 30th, 1789.



Fellow-citizens of the Senate, and  
of the House of Representatives,

AMONG the vicissitudes incident to life, no event could have filled me with greater anxieties, than that of which the notification was transmitted by your order, and received on the fourteenth day of the present month. On the one hand, I was summoned by my country, whose voice I can never hear but with veneration and love, from a retreat which I had chosen with the fondest predilection, and in my flattering hopes with an immutable decision as the asylum of my declining years; a retreat which was rendered every day more necessary, as well as more dear to me, by the addition of habit to inclination, and of frequent interruptions in my health to the gradual waste committed on it by time. On the other hand, the magnitude and difficulty of the trust, to which the voice of my country called me, being sufficient to awaken in the wisest and most experienced of her citizens a distrustful scrutiny into his qualifications, could not but overwhelm with despondence one, who inheriting inferior endowments from nature, and unpractised in the duties of civil administration, ought to be peculiarly conscious of his own deficiencies. In this conflict of emotions, all I dare aver, is, that it has been my faithful

study to collect my duty from a just appreciation of every circumstance by which it might be affected. All I dare hope is, that if in executing this task, I have been too much swayed by a grateful remembrance of former instances, or by an affectionate sensibility to this transcendent proof of the confidence of my fellow-citizens, and have thence too little consulted my incapacity as well as disinclination for the weighty and untried cares before me, my error will be palliated by the motives which misled me, and its consequences be judged by my country, with some share of the partiality in which they originated.

Such being the impressions under which I have, in obedience to the public summons, repaired to the present station, it would be peculiarly improper to omit in this first official act, my fervent supplications to that Almighty Being who rules over the universe—who presides in the councils of nations—and whose providential aids can supply every human defect, that his benediction may consecrate to the liberties and happiness of the people of the United States, a government instituted by themselves for these essential purposes; and may enable every instrument, employed in its administration, to execute with success, the functions allotted to his charge. In tendering this homage to the great author of every public and private good, I assure myself that it expresses your sentiments not less than my own, nor those of my fellow-citizens at large, less than either. No people can be bound to acknowledge and adore the invisible hand, which conducts the affairs of men, more than the people of the United States. Every step, by which they have advanced to the character of an independent nation, seems to have been distinguished by some token of providential agency; and in the important revolution just accomplished in the system of their united government, the tranquil deliberations and voluntary consent of so many distinct communities, from which the event has resulted, cannot be compared with the means, by which most gov-



ernments have been established, without some return of pious gratitude along with a humble anticipation of the future blessings which the past seem to presage. These reflections, arising out of the present crisis, have forced themselves too strongly on my mind to be suppressed. You will join with me, I trust, in thinking that there are none under the influence of which, the proceedings of a new and free government can more auspiciously commence.

By the article establishing the executive department, it is made the duty of the President, "to recommend to your consideration, such measures as he shall judge necessary and expedient." The circumstances under which I now meet you, will acquit me from entering into that subject, farther than to refer to the great constitutional charter under which you are assembled; and which, in defining your powers, designates the objects to which your attention is to be given. It will be more consistent with those circumstances, and far more congenial with the feelings which actuate me, to substitute, in place of a recommendation of particular measures, the tribute that is due to the talents, the rectitude, and the patriotism which adorn the characters selected to devise and adopt them. In these honorable qualifications, I behold the surest pledges, that as, on one side, no local prejudices or attachments, no separate views, nor party animosities, will misdirect the comprehensive and equal eye which ought to watch over this great assemblage of communities and interests; so on another, that the foundations of our national policy will be laid in the pure and immutable principles of private morality; and the pre-eminence of free government, be exemplified by all the attributes which can win the affections of its citizens, and command the respect of the world. I dwell on this prospect with every satisfaction which an ardent love for my country can inspire: since there is no truth more thoroughly established, than that there exists in the economy and course of nature, an indissolu-

ble union between virtue and happiness, between duty and advantage, between the genuine maxims of an honest and magnanimous policy and the solid rewards of public prosperity and felicity : since we ought to be no less persuaded, that the propitious smiles of heaven can never be expected on a nation that disregards the eternal rules of order and right, which heaven itself has ordained : and since the preservation of the sacred fire of liberty, and the destiny of the republican model of government, are justly considered as deeply, perhaps as finally staked, on the experiment entrusted to the hands of the American people.

Besides the ordinary objects submitted to your care, it will remain with your judgment to decide, how far an exercise of the occasional power delegated by the fifth article of the constitution is rendered expedient at the present juncture by the nature of objections which have been urged against the system, or by the degree of inquietude which has given birth to them. Instead of undertaking particular recommendations on this subject, in which I could be guided by no lights derived from official opportunities, I shall again give way to my entire confidence in your discernment and pursuit of the public good ; for I assure myself that whilst you carefully avoid every alteration which might endanger the benefits of an united and effective government, or which ought to await the future lessons of experience ; a reverence for the characteristic rights of freemen, and a regard for the public harmony, will sufficiently influence your deliberations on the question how far the former can be more impreguably fortified, or the latter be safely and advantageously promoted.

To the preceding observations I have one to add, which will be most properly addressed to the House of Representatives. It concerns myself, and will therefore be as brief as possible. When I was first honored with a call into the service of my country, then on the eve of an arduous struggle for its liberties, the



light in which I contemplated my duty required that I should renounce every pecuniary compensation. From this resolution I have in no instance departed. And being still under the impressions which produced it, I must decline, as inapplicable to myself, any share in the personal emoluments, which may be indispensably included in a permanent provision for the executive department; and must accordingly pray that the pecuniary estimates for the station in which I am placed, may, during my continuance in it, be limited to such actual expenditures as the public good may be thought to require.

Having thus imparted to you my sentiments, as they have been awakened by the occasion which brings us together, I shall take my present leave; but not without resorting once more to the benign Parent of the human race, in humble supplication, that since he has been pleased to favor the American people, with opportunities for deliberating in perfect tranquillity, and dispositions for deciding with unparalleled unanimity on a form of government, for the security of their union, and the advancement of their happiness; so his divine blessing may be equally conspicuous in the enlarged views, the temperate consultations, and the wise measures on which the success of this government must depend.

*C. W. Smith*

## SPEECH OF WILLIAM L. SMITH,

ON

MR. MADISON'S RESOLUTIONS,

DELIVERED IN THE HOUSE OF REPRESENTATIVES OF THE UNITED  
STATES.



On the 3d of January, 1794, the house of representatives resolved itself into a committee of the whole, on the report of Mr. Jefferson, Secretary of State, "On the nature and extent of the privileges and restrictions of the commercial intercourse of the United States with foreign nations, and the measures which he thought proper to be adopted for the improvement of the commerce and navigation of the same," when Mr. Madison introduced a series of resolutions, proposing to impose "further restrictions and higher duties, in certain cases, on the manufactures and navigation of foreign nations, employed in the commerce of the United States, than those now imposed." On the 13th, Mr. Smith addressed the committee as follows :

MR. CHAIRMAN,

AMONG the various duties which are assigned by the constitution to the legislature of the United States, there is perhaps none of a more important nature than the regulation of commerce, none more generally interesting to our fellow-citizens, none which more seriously claims our diligent and accurate investigation.

It so essentially involves our navigating, agricultural, commercial and manufacturing interests, that an apology for the prolixity of the observations which I am about to submit to the committee, will scarcely be requisite.



In the view which I shall take of the question, disengaging the inquiry from all topics of a political nature, I shall strictly confine myself to those which are commercial, and which alone are, in my judgment, properly connected with the subject.

Called upon to decide on propositions, merely commercial, and springing from a report, in its nature limited to commercial regulations, it would be as ill-timed, as it would be irregular, to mingle with the discussion considerations of a political nature. I shall accordingly reject from the inquiry every idea which has reference to the Indians, the Algerines, or the Western Posts. Whenever those subjects require our deliberations, I shall not yield to any member in readiness to vindicate the honor of our country and to concur in such measures as our best interests may demand.

This line of procedure will, I trust, be deemed by those gentlemen who follow me the only proper one, and that the debate will be altogether confined to commercial views; these will of themselves open a field of discussion sufficiently spacious, without the intervention of arguments derived from other sources. It would indeed argue a weakness of ground in the friends of the propositions, and imply a distrust of the merits of their cause, were they compelled to bolster it up with such auxiliaries, and to resort for support to arguments, not resulting from the nature of the subject, but from irrelative and extraneous considerations.

The propositions, as well as the report, being predicated upon facts and principles having relation to our commerce and navigation with foreign countries, by those facts and principles, and those alone, ought the propositions to stand or fall.

It will not be denied, that this country is at present in a very delicate crisis, and one requiring dispassionate reflection, cool and mature deliberation. It will be much to be regretted then, if passion should usurp

the place of reason; if superficial, narrow and prejudiced views should mislead the public councils from the true path of national interest.

The report of the secretary of state, on the privileges and restrictions on the commerce of the United States in foreign countries, is now before the committee. The tendency of that report, (whatever may have been the design of the reporter,) appears to be, to induce a false estimate of the comparative condition of our commerce with certain foreign nations, and to urge the legislature to adopt a scheme of retaliating regulations, restrictions and exclusions.

The most striking contrast, which the performance evidently aims at, is between Great Britain and France. For this reason, and as these are the two powers with whom we have the most extensive relations in trade, I shall, by a particular investigation of the subject, endeavor to lay before the committee an accurate and an impartial comparison of the commercial systems of the two countries in reference to the United States, as a test of the solidity of the inferences which are attempted to be established by the report. A fair comparison can only be made with an eye to what may be deemed the permanent system of the countries in question. The proper epoch for it, therefore, will precede the commencement of the pending French revolution.

The commercial regulations of France, during the period of the revolution, have been too fluctuating, too much influenced by momentary impulses, and, as far as they have looked towards this country with a favorable eye, too much manifesting an object of the moment, which cannot be mistaken, to consider them as a part of a system. But though the comparison will be made with principal reference to the condition of our trade with France and Great Britain antecedent to the existing revolution, the regulations of the subsequent period will perhaps not be passed over altogether unnoticed.

The table which I have before me, comprises the



principal features of the subject within a short compass. It is the work of a gentleman of considerable commercial knowledge, and I believe may be relied on for its correctness. An attentive reference to it will, with some supplementary remarks, convey a just conception of the object. A view to conciseness and simplicity has excluded from it all articles (the production and manufactures of the United States,) which are not of considerable importance.

Accustomed as our ears have been to a constant panegyric on the generous policy of France towards this country in commercial relations, and to as constant a philippic on the unfriendly, illiberal and persecuting policy of Great Britain towards us in the same relations, we naturally expect to find, in a table which exhibits their respective systems, numerous discriminations in that of France in our favor, and many valuable privileges granted to us, which are refused to other foreign countries; in that of Great Britain, frequent discriminations to our prejudice, and a variety of privileges refused to us, which are granted to other foreign nations. But an inspection of the table will satisfy every candid mind that the reverse of what has been supposed is truly the case; that neither in France nor the French West Indies is there more than one solitary and unimportant distinction in our favor, (I mean the article of fish oil,) either with regard to our exports thither, our imports from thence, or our shipping; that both in Great Britain and the British West Indies, there are several material distinctions in our favor, with regard both to our exports thither and to our imports from thence, and, as it respects Great Britain, with regard also to our shipping; that in the market of Great Britain a preference is secured to six of our most valuable staples, by considerably higher duties on the rival articles of other foreign countries; that our navigation thither is favored by our ships, when carrying our own productions, being put upon as good a footing as their own ships, and by the exemption of se-

veral of our productions, when carried in our ships, from duties which are paid on the like articles of other foreign countries carried in the ships of those countries; that several of our productions may be carried from the United States to the British West Indies, while the like productions cannot be carried thither from any other foreign country; and that several of the productions of those countries may be brought from thence to the United States, which cannot be carried from thence to any other foreign country.

These important differences in the systems of the two countries will appear more fully by passing in review each article, and presenting, at the same time, the remarks which it will suggest.

[Here Mr. Smith entered into a critical examination of our export trade with France and Great Britain, from which he drew an inference, that Great Britain and her dominions consumed annually a much greater amount of our commodities than France and her dominions, and consequently, that Great Britain was a much better customer, as a consumer, than France. He then proceeded to take a view of our import trade with those countries, from which he drew the conclusion, that Great Britain was our best furnisher as well as our best customer. Mr. Smith next adverted to our navigation with France and England. After going into a detail of facts upon this subject, he proceeded thus]—

We find then, upon a comprehensive and particular investigation of the system of Great Britain, that instead of its wearing an aspect particularly unfriendly towards us, it has in fact a contrary aspect; that compared with other foreign nations, it makes numerous and substantial discriminations in our favor; that it secures by means, which operate as bounties upon our commodities, a preference in her markets to the greatest number of our principal productions, and thereby materially promotes our agriculture and commerce; that in the system of France there is but a



single and not very important instance of a similar kind; that if France allows us some advantages of navigation in her islands, she allows the same advantages to all other foreign nations, while Great Britain allows advantages to our navigation with herself directly which she does not allow to other foreign nations; that if France admits our salted fish into her West India islands, she does it under such duties upon ours and such premiums upon her own as would exclude us from them, if she had capacity to supply herself, while she formally prohibits our flour; that if Great Britain excludes our fish from her islands, she freely admits our flour; that while France, as far as we are permitted to trade with her islands, lets in other foreign nations to a competition with us on equal terms, Great Britain excludes from a competition with most of the articles of the United States, which she admits into the islands, the like articles of other foreign countries; that while France permits us to be supplied directly from her islands with nothing more than she permits to other nations, and with only the two articles of molasses and rum, Great Britain allows us to be supplied directly from her islands with a considerable number of essential articles, and refuses a direct supply of those articles to other foreign countries; that if the system of France is somewhat more favorable to our navigation, that of Great Britain is far more favorable to our agriculture, our commerce, and to the due and comfortable supply of our wants; that Great Britain is a better furnisher than France of the articles we want, from other foreign countries, and a better customer for what we have to sell; and that the actual relations of commerce between the United States and Great Britain are more extensive and important than between the United States and France, and it may be added, or any other country in the world, for our trade with France is no doubt second in importance.

Where then is the ground for extolling the liberal

policy of France, the superior importance of our commercial connexion with her, and for exclaiming against the illiberal and oppressive policy of Great Britain, and for representing our intercourse with her as secondary in consequence and utility? There is none. 'Tis altogether a deception which has been long successfully practised upon the people of the United States, and which it is high time we should unmask.

If we pass from the fact of the footing of our commerce with France and Great Britain to the principles and motives of their respective systems, we shall find as little room for eulogium on the one as censure on the other. Candor will assign to both the same station in our good or bad opinion.

Both (like other nations) have aimed at securing the greatest possible portion of benefit to themselves, with no greater concession to our interests than was supposed to coincide with their own.

The colonial system of France is the great theme of the plaudits of her partizans. The detail, already entered into respecting it, will now be further elucidated by a concise view of its general principles and progress.

An ordinance of the year 1727, like the British navigation act, had given to the mother country a monopoly of the trade of the colonies, and had entirely excluded foreigners from it.

Experience having shown, as we learn from an ordinance of 30th August, 1784, that it was necessary to moderate the rigor of that system, small relaxations from time to time accordingly took place, and by the ordinance just mentioned, more important alterations were made.

That ordinance establishes several free ports in the French islands, one at St. Lucie, one at Martinique, one at Guadaloupe, one at Tobago, and three at St. Domingo, and grants permission, "till the king should please otherwise to ordain," to foreign vessels of at



least sixty tons burthen to carry to those free ports wood of all kinds, pit coal, live animals, salted beef, but not pork, salted cod and fish, rice, Indian corn, vegetables, green hides in the hair or tanned, peltry, turpentine and tar, and to take from the same ports, molasses, rum and merchandizes which had been imported from France, charging the articles which are permitted to be imported, with the duties stated in the table.

The steps which succeeded that ordinance, calculated to narrow its operation in regard to the article of fish, have been already noted so particularly as to render a recapitulation unnecessary.

It is sufficient to repeat that they manifested on this point a decided disposition to exclude as far as possible foreign fish, from a competition with their own.

It appears then that the general principle of the colony system of France, like that of Great Britain, was a system of monopoly, and that some temporary deviations from it were, from time to time, made from necessity or the force of circumstances.

In like manner, the navigation act of Great Britain gives the mother country a monopoly of the trade of her colonies, not only as to navigation, but as to supply; but the force of circumstances has led to some deviations.

The deviations of France have extended partially to navigation, as well as to supply. Those of Great Britain have extended further than those of France, as to supply, but have been narrower as to navigation. Neither however has deviated further than particular situation dictated. Great Britain has been less relaxed on the article of navigation than France, because the means of navigation possessed by the former were more adequate than those possessed by the latter. France has been more restrictive on the article of exports than Great Britain, because her home market was more adequate to the consumption of the productions of her islands than that of Great Britain to

those of her islands, and because the latter found advantages in allowing a freer export to the United States as an article of exchange. France permitted the introduction of salted beef and fish into her islands, because she could not sufficiently furnish those articles herself: she prohibited flour and pork, because she thought herself competent to the supply of them: Great Britain prohibited fish, because she knew herself able to furnish it, and like France, was jealous of an interference with her fisheries, as a main support of her navigation. She permitted flour, because she knew herself unable to supply it. As far as the measures of France may have had a conciliatory aspect towards this country, she was influenced by the desire of sharing more largely in our trade, and diverting it more from her ancient rival. As far as the measures of Great Britain may have made any concession to us, they have proceeded from a sense of our importance to her as a customer, from the utility of our supplies to her, from a conviction that it was necessary to facilitate to us the means of re-exchange, that it was better to take our commodities, which were paid for in commodities, than those of other countries, which she might have to pay for in specie, that it was good policy to give us some *douceur*, as well to hinder our commerce from running into another channel, as to prevent collisions which might be mutually injurious.

These are the true features of the systems of both countries, as to motives. If we are unprejudiced, we shall see in neither of them either enmity or particular friendship; but we shall see in both a predominant principle of self-interest, the universal rule of national conduct.

Having completed my comparison of the two systems of France and Great Britain towards this country, I shall now extend it to those of other countries, in order to mark the principal differences.

[Here Mr. Smith described the situation of our commercial relations with the United Netherlands, Sweden.



Spain, Portugal and Denmark, and drew the conclusion that the system of Great Britain, not only as compared with that of France, was entitled to our preference, but that it was also greatly to be preferred to that of all the beforementioned nations, except perhaps the United Netherlands. He then continued his speech as follows:]

From the view which has been taken, this general reflection results, that the system of every country is selfish according to its circumstances, and contains all those restrictions and exclusions which it deems useful to its own interests. Besides this, a desire to secure to the mother country a monopoly of the trade of its colonies, is a predominant feature in the system of almost every country in Europe. Nor is it without foundation in reason. Colonies, especially small islands, are usually maintained and defended at the expense of the mother country, and it seems a natural recompense for that service, that the mother country should enjoy, exclusively of other nations, the benefit of trade with its colonies. This was thought reasonable by the United States, while colonies, even after their disputes on the point of taxation had begun: and however the question may stand between the mother country and its colonies, between the former and foreign nations, it is not easy to see how the equity of the exclusion can be contested. At any rate, its being the most prevailing system of nations having colonies, there is no room for acrimony against a particular one that pursues it. This ought not to dissuade the United States from availing itself of every just and proper influence to gain admission into the colony trade of the nations concerned; but this object ought to be pursued with moderation, not under the instigation of a sense of injury, but on the ground of temperate negotiation and reasonable equivalent.

These observations ought to produce two effects, to moderate our resentments against particular nations and our partialities for others, and to evince the im-

practicability and Quixotism of an attempt by violence, on the part of this young country, to break through the fetters which the universal policy of nations imposes on their intercourse with each other.

Our moderation in this respect ought to be excited by another reflection—does not our own system present a number of exclusions and restrictions similar to those of which we complain? Let us look into our impost and tonnage acts; do they not exhibit a number of instances of duties prohibitory in their principle and extent? Do they not by additional duties on foreign vessels and on goods brought in foreign vessels, secure a decided superiority to our ships in the navigation between this country and all those to which they are permitted to go? If duties on goods of one country, imported into another, are oppressions and grievances, (as the Secretary of State seems frequently to suppose,) how few are the foreign articles brought into the United States, on which considerable duties are not laid.

The Secretary of State, after pointing out the exclusions, restrictions and burdens which prevent our enjoying all the advantages which we could desire in the trade with foreign countries, proceeds to indicate the remedies; these are counter-exclusions, restrictions and burdens.

The reason of the thing and the general observations of the Secretary of State, would extend the regulations to be adopted to all the nations with whom we have connexions in trade; but his conclusion would seem to confine them to Great Britain, on the suggestion that she alone has declined friendly arrangements by treaty, and that there is no reason to conclude, that friendly arrangements would be declined by other nations.

The suggestion with regard to Great Britain, appears not to be well founded, if we are to judge from the correspondence with the British minister, Mr. Hammond, communicated by the president to the



house. Mr. Jefferson asks him, if he is empowered to treat on the subject of commerce; he replies, that he is fully authorized to enter into a negotiation for that purpose, though not as yet empowered to conclude. Upon further difficulty and objection on the part of Mr. Jefferson, Mr. Hammond renews his assurance of his competency to enter on a negotiation, which he rests on his commission, as minister plenipotentiary, and his instructions; Mr. Jefferson requires a communication of his full powers for that purpose, and declines the negotiation. This was by no construction a declining on the part of the British minister. Forms were the obstacle with the Secretary of State, whose zeal, at best, was not greater than Mr. Hammond's.

But with regard to Spain, these observations occur. A secret article with France, stipulated for Spain a right to become a party to our commercial treaty with France, on the same terms. She has never availed herself of the right. Do we not know, that measures have been since pursued towards forming a treaty of commerce with her? Do we not know that none has been formed? Have we not reason to suspect, that such a treaty, on eligible terms, could not be obtained but at a price which we should be unwilling to pay for it? Have no measures been pursued towards effecting a commercial treaty with a power so interesting to us as Portugal? What was the object of sending a minister there? How happens it, that there is no return? Is not there reason to conclude, from the long delay, that there are serious obstacles to the forming a proper treaty of commerce with that nation?

Why then is Great Britain selected, but that it is most in unison with our passions to enter into collisions with her?

If retaliations for restrictions, exclusions and burdens, are to take place, they ought to be dealt out, with a proportional hand, to all those from whom they are experienced. This, justice and an inoffensive conduct require. If, suffering equal impediments to our trade

from one power as another, we retaliate on one and not on another, we manifest that we are governed by a spirit of hostility towards the power against whom our retaliation is directed, and we ought to count upon a reciprocation of that spirit. If, suffering fewer from one than from another, we retaliate only on that party from whom we suffer least, the spirit of enmity, by which we were actuated, becomes more unequivocal. If, receiving a positively better treatment from one than another, we deal most harshly towards that power which treats us best, will it be an evidence either of justice or moderation? Will it not be a proof either of caprice, or of a hatred and aversion, of a nature to overrule the considerations both of equity and prudence.

Whatever questions may be raised about the preference due to the British commercial system, as compared with that of France, there can be none, comparing it either with that of Spain or Portugal.

Where then is the justification of the attempt to produce a war of commercial regulations with Great Britain, passing over greater objections to the policy observed toward us by other nations?

Commercial regulations ought to be bottomed on commercial motives: but if political grievances are to be implicated, is there no power proposed to be exempted, of whom we have cause to complain?

The propositions, (which may be considered as a commentary on the report,) do every thing but name Great Britain. Professedly confined to the powers with whom we have no treaties of commerce, the articles selected, as the objects of regulation, have scarcely any application but to Great Britain. This is but a flimsy cover; the design will be mistaken by no one, and there would have been much more dignity in naming the party with whom it was meant to contend.

The idea of an apportionment of retaliation to grievance is rendered impossible by our treaties.



These contain precise stipulations of mutual privileges, and in each case the general principle of the party being on the footing of the most favored nation.

But at least it might be done with regard to the powers with whom we have no treaties, and the not proposing it will be considered as a clear proof that the ostensible object is one thing, the real object another.

Will it be believed out of doors, that all this proceeds from a pure zeal for the advancement of commerce and navigation? Have the views of our public councils been uniform on this point? Have they never contributed to lose favorable opportunities for making such a treaty, by recalling powers for that purpose once given, by defeating efforts made to send them when they might have been useful?

Whatever may be the motive, the operation may clearly be pronounced to be a phenomenon in political history—a government, attempting to aid commerce by throwing it into confusion; by obstructing the most precious channels in which it flows, under the pretence of making it flow more freely; by damming up the best outlet for the surplus commodities of the country, and the best inlet for the supplies, of which it stands in need; by disturbing without temptation, a beneficial course of things, in an experiment precarious, if not desperate; by arresting the current of a prosperous and progressive navigation, to transfer it to other countries, and by making all this wild work in the blameable, but feeble attempt to build up the manufactures and trade of another country at the expense of the United States.

Let us take a closer view of the project. It has been proved that it does not rest on a basis of distributive justice, and observations have been made to evince its impolicy. But this demands a more critical examination.

Let it be premised, that it is a project calculated to disturb the existing course of three fourths of our import trade, two fifths of our export trade, and the

means on which depend two thirds, at least, of our revenues.

To be politic, therefore, it ought to unite these different ingredients :

1. An object of adequate utility to the country.
2. A moral certainty at least of success.
3. An assurance that the advantage likely to be obtained, is not overbalanced by the inconveniences likely to be incurred, and as an equivalent for the jeopardy to which advantages in our possession are exposed.

1. The direct object professed to be aimed at, is a freer trade with Great Britain, and access to her West India islands, in our own ships. A collateral one, the success of which seems most relied on, is to transfer a part of our too great trade with Great Britain to other nations, particularly France.

The first is no doubt an object of real magnitude, worthy of every reasonable and promising exertion. The second, in the single light of obviating a too great dependence for supply on one nation, is not unworthy of attention, but, as before observed, it ought only to be aimed at by expedients neither embarrassing nor expensive ; it is a very insufficient object to be pursued either at hazard or expense to the people of the United States. It has been already shown, that to pursue it, either by prohibitions or partial increase of duties, would be a costly undertaking to this country.

2. The second ingredient is, "a moral certainty of success." The argument used to prove the probability, nay, the certainty of success, is this ; the United States are a most important customer to Great Britain ; they now take off near three millions in her manufactures, and by the progress of their population, which is likely to exceed that of their manufactures, the probability is, that their importance as a customer will increase every year ; their importance to Great Britain, as a source of supply, is not less than as a customer for her manufactures ; the articles with which they furnish her, are those of prime necessity,



consisting of the means of subsistence, and the materials for ship-building and manufactures, while the articles we derive from her, are mostly those of convenience and luxury; her supplies to us are therefore less useful than ours to her; that it would be contrary to all good policy in Great Britain, to hazard the turning of a commerce so beneficial, into other channels; beside all this, Great Britain is immersed in debt, and in a state of decipitude; the derangement of our commerce with her, would endanger a shock to the whole fabric of her credit, and by affecting injuriously the interests of a great portion of her mercantile body, and by throwing out of employ a large number of her manufacturers, would raise a clamor against the ministry too loud and too extensive to be resisted; and that they would consequently be compelled by the weight of these considerations to yield to our wishes.

It is as great an error in the councils of a country to over-rate as to under-rate its importance. The foregoing argument does this, and it does it in defiance of experience. Similar arguments were formerly used in favor of a non-importation scheme; the same consequences now foretold, were then predicted in the most sanguine manner; but the prediction was not fulfilled. This it would seem, ought to be a caution to us now, and ought to warn us against relying upon the like effects, promised from a measure of much less force, namely, an increase of duties.

If our calculations are made on the ordinary course of the human passions, or on a just estimate of relative advantages for the contest proposed, we shall not be sanguine in expecting that the victory will be readily yielded to us, or that it will be easily obtained.

The navigation act of Great Britain, the principles of which exclude us from the advantages we wish to enjoy, is deemed by English politicians, as the palladium of her riches, greatness and security.

After having cherished it for such a long succession of years, after having repeatedly hazarded much for

the maintenance of it, with so strong a conviction of its immense importance, is it at all probable that she would surrender it to us without a struggle—that she would permit us to extort the abandonment of it from her without a serious trial of strength?

Prejudices riveted by time and habit, opinions fixed by long experience of advantages, a sense of interest, irritated pride, a spirit of resentment at the attempt, all these strong circumstances would undoubtedly prompt to resistance. It would be felt, that if a concession were made to us upon the strength of endeavors to extort it, the whole system must be renounced; it would be perceived, that the way having been once successfully pointed out to other nations, would not fail to be followed, and that a surrender to one would be a surrender to all.

Resistance therefore would certainly follow in one or other mode, a war of arms or of commercial regulations.

If the first should be determined upon, it would not be difficult for Great Britain to persuade the other powers, with whom she is united, that they ought to make common cause with her. She would represent that our regulations were in fact only a covert method of taking part in the war by embarrassing her, and that it was the interest of the cause, in which they were combined, to frustrate our attempts.

If war could be foreseen as the certain consequence of the experiment proposed to be made, no arguments would be necessary to dissuade from it. Every body would be sensible that more was to be lost than gained, and that so great a hazard ought not to be run.

But we are assured that there is no danger of this consequence, that no nation would have a right to take umbrage at any regulations we should adopt with regard to our own trade, and that Great Britain would take care how she put to risk so much as she would hazard by a quarrel with us.



All this is far more plausible than solid. Experience has proved to us that the councils of that country are influenced by passion as well as our own. If we should seize the present moment to attack her in a point where she is peculiarly susceptible, she would be apt to regard it as a mark of determined hostility. This would naturally tend to kindle those sparks of enmity which are alledged to exist on her side. War is as often the result of resentment as of calculation. A direct and immediate war between us would not be surprising; but if this should not take place, mutual ill offices and irritations, which naturally grow out of such a state of things, would be apt quickly to lead to it. Insults and aggressions might become so multiplied and open as not to permit forbearance on either side.

It would be a calculation with Great Britain whether she could best oppose us by retaliating regulations, or by arms.

As circumstances at the moment of deliberation should point, according to the then view of probabilities, would be the result. The decision may be in favor of war, under the idea that its distresses might induce us to enter into a commercial treaty upon her own terms; who can pronounce that this would not be the result, when it is considered that she is likely to be aided by so many other maritime powers now in her connexion?

Let us however take it for granted that she would prefer the other course, that of retaliating regulations; how will the contest stand? The proportion of the whole exports of Great Britain, which comes to the United States, is about one fifth; the proportion of our exports, which goes to Great Britain, is about one eighth of the whole amount of her imports. Taking the mean of these proportions of imports and exports, the proportion which our trade with Great Britain bears to the totality of her trade is about one sixth.

The proportion of imports from the dominions of Great Britain into the United States, may be stated at three fourths of our whole importation; the proportion

which our exports to the same dominions bears to our total exportation may be stated at two fifths; taking the mean of these two, the proportion which our trade with Great Britain bears to our whole trade is something more than one half.

It follows then, that while a commercial warfare with Great Britain would disturb the course of about one sixth of her trade, it would disturb the course of more than one half of ours.

This much greater proportional derangement of our trade than of hers by a contest, is a mathematical demonstration that the contest would be unequal on our part, that we should put more to hazard than Great Britain would do, should be likely to suffer greater inconvenience than her, and consequently, (the resolution and perseverance of the two parties being supposed equal,) would be soonest induced to abandon the contest.

The inequality of the contest is evinced by these further considerations. The capital of Great Britain is greater in proportion to numbers than ours. A manufacturing as well as an agricultural nation, the objects of her industry and the materials of her trade are as much diversified as can well be conceived, while ours are few and simple. The habits of her people admit of her bringing into action every source of revenue which she possesses, while those of ours embarrass the government at every step, and would render substitutes for the existing ones extremely difficult. The government of Great Britain has all the energy, which can be derived either from the nature of a government, or from long habits of obedience in the people, while ours is in its infancy, neither confirmed by age nor habit, and with many circumstances to lessen its force. No one can but be sensible, that in proportion to the capital of a merchant or a nation, is the faculty to endure partial derangements to the trade carried on by the one or the other; that in proportion to the diversity of objects which a merchant or a nation can bring



to market, is the faculty to find new resources of trade, and to bear the temporary suspension of existing ones; that in proportion to the habitude of a nation to endure taxation, is the facility of a government to find substitutes for revenues lost; that in proportion to the energy of a government and the habits of obedience of a people, is the chance of perseverance on the part of such government, in measures producing inconveniences to the community.

Great Britain then would have less to resist and more means of resistance than the United States; the United States more to resist and less means of resistance than Great Britain. Which party are the chances against in such a contest? Can any one say that the United States ought, in such a comparative situation, to count on success in an experiment like that proposed, with sufficient assurance to be justified in hazarding upon it so great a derangement of its affairs, as may result from the measure?

The main argument for the chance of success, is, that our supplies to Great Britain are more necessary to her than hers to us. But this is a position which our self-love gives more credit to than facts will altogether authorize. Well informed men in other countries, (whose opportunities of information are at least as good as ours,) affirm, that great Britain can obtain a supply of most of the articles she obtains from us, as cheap and of as good a quality elsewhere, with only two exceptions, namely, tobacco and grain, and the latter is only occasionally wanted: a considerable substitute for our tobacco, though not of equal quality, may be had elsewhere: and even admitting this position to be too strongly stated, yet there is no good reason to doubt that it is in a great degree true. The colonies of the different European powers on this continent, some countries on the Mediterranean, and the northern countries of Europe, are in situations adapted to becoming our competitors.

On the other hand, the manufactured articles which

we do not make ourselves, (the greatest part of which are, in civilized countries, necessities,) are as important to us, as our materials for manufacture (the only articles for which her demand is constant,) are to Great Britain. The position is as true, that no other nation can supply us as well as that country, with several essential articles which we want, as that no nation can supply her equally well with certain articles which she takes from us; and as to other articles of subsistence, it is certain that our demand for manufactured supplies is more constantly urgent than her demand for those articles. Where indeed shall we find a substitute for the vast supply of manufactures which we get from that country? No gentleman will say that we can suddenly replace them by our manufactures, or that this, if practicable, could be done without a violent distortion of the natural course of our industry. A substitute of our own being out of the question, where else shall we find one?

France was the power which could best have filled any chasm that might have been created. But this is no longer the case. 'Tis undeniable that the money capitals of that country have been essentially destroyed; that manufacturing establishments, except those for war, have been essentially deranged. The destruction to which Lyons appears to be doomed, is a severe blow to the manufactures of France; that city, second in importance in all respects, was perhaps the first in manufacturing importance. It is more than probable that France, for years to come, will herself want a foreign supply of manufactured articles.

At a moment then, when the manufactures of Great Britain have become more necessary than ever to us, can we expect to succeed in a contest, which supposes that we can dispense with them?

It may be said that the resolutions proposed do not suppose this; but they do suppose it, for they ought to proceed upon the possibility, nay, probability, that a system of commercial retaliation will be adopted by



Great Britain, in which case we must inevitably sustain a defeat, if we cannot dispense both with her supplies and with her market for our supplies.

Will it be answered that her manufactures will find their way to us circuitously, and our supplies to her in like manner? If so, what are our regulations to produce but distress and loss to us? The manufactures of Great Britain will still be consumed, and our materials will still nourish those manufactures.

The manufactures we take from her being less bulky than the supplies we send her, the charges of a circuitous transportation would be less than those of a like transportation of our commodities. In all the cases therefore, in which those charges fall upon her, they would be lighter than in the cases in which the latter charges fell upon us. Moreover, as the articles of Great Britain would meet less competition in our markets than ours in hers, the increased charges on her manufactures would much oftener fall upon us than those upon our materials would fall upon her. So that both ways we should sustain loss.

But, it may be asked, what are the regulations Great Britain could adopt to counteract ours?

I answer, she could, (among other conceivable things,) prohibit or lay prohibitory duties on her commodities to this country, and on ours to her, in our bottoms; and she might in addition, temporarily grant the same privileges to Dutch or other friendly bottoms which are now granted to those of the United States in the trade between us and herself; or she might go no further in this particular than to permit the importation of our commodities in some of those bottoms. This, it is true, would be a departure from the system of her navigation act; but when the question was, whether she should surrender it permanently to us by extortion, or temporarily to a power more friendly to her, till the issue of the experiment could be decided, who can doubt what would be the course which interest and resentment would dictate?

But there are numerous other regulations which could be adopted, and which equally with the foregoing would have the effect of transferring the trade between the two countries to the management of some third party; for after all, it is not improbable this will be the result of the contest, that instead of the United States and Great Britain carrying on jointly as they now do the trade between the two countries, it will be carried on either directly or circuitously by some third power, more to our detriment than to that of Great Britain.

The manufactures of that country will get to us nearly in the same quantities they now do, with the disadvantage of additional charges; such of our commodities, as she cannot have of equal quality elsewhere, will get to her also: the rest will be supplanted by the like commodities of other nations, and we shall lose the best market we have for them.

Those who advocate the system of contention, should tell us where a substitute will be found. The merchants, who know that it is now difficult enough to find markets for our surplus commodities—that France, in ordinary times, affords a very contracted one, and that the French West Indies are not likely, in settled times, to be as good customers as they have been for some time past, cannot desire to see the sphere abridged, and our landholders will quickly reprobate the plan.

Thus it appears, that the contest would be likely to issue against us, and to end in defeat and disgrace.

What would be our situation if we should make an attempt of the kind and fail in it? Our trade would then truly be in the power and at the disposal of Great Britain.

3. The third ingredient stated, as necessary to justify the proposed attempt, is this; that the prospect of advantages should be at least an equivalent for those in possession, which would be put in jeopardy by the experiment.

It has been shown, that in fact there is no real pros-



pect of advantage, but a considerable one of inconvenience and loss. This puts an end to comparison. But it may be added, that our situation is precisely such an one as to forbid experiments. It is so, from the stage at which we are, as a people, too little advanced, too little matured for hazardous experiments of any sort.

This is not all: our general situation at this time is an eligible one; we are making as rapid a progress in most of the great branches of political prosperity as we can reasonably desire, and it would be imprudent to hazard such a situation, upon precarious speculations of greater advantage. The prosperity of a nation is not a plant to thrive in a hotbed; moderation in this respect is the truest wisdom; it is so plain a path, that it requires a peculiar sublimation of ideas to deviate from it.

It is agreed on all hands, that all our great national interests, our population, agriculture, manufactures, commerce and our navigation, are in a thriving and progressive state, advancing faster than was to have been expected, and as fast as can reasonably be desired.

Our navigation, in the short space of three years, ending the 31st of December, 1792, has increased in the ratio of nearly one fifth.

The proportions of our tonnage have been as follows:—

In 1790	tons 479091	} showing an increase of 89192 tons.
1791 - - -	501790	
1792 - - -	568283	

The proportion of foreign tonnage during the same years, has been—

In 1790	tons 258919	} showing a decrease of 14656 tons.
1791 - - -	240799	
1792 - - -	244263	

This proves that our present system is highly favorable to the increase of our navigation, and that we are gradually supplanting foreigners.

The truth is, that the difference in the tonnage duty, and the addition of one tenth upon the duties on goods imported in foreign bottoms, is a powerful encouragement to our shipping, and as it has not been of a magnitude to excite retaliation, it is much more likely to promote the interests of our navigation, than violent measures, which would compel to retaliation; prudence admonishes us to stop where we are, for the present, rather than risk the advantages we possess, in trials of strength, that never fail to injure more or less both parties.

If we turn from our shipping to our agriculture, we shall find no reason to be dissatisfied.

The amount of our exports for the year, ending 30th September, 1792, as appears by the last return of exports to this house, exceeded the two preceding years by five hundred eighty-nine thousand, six hundred and one dollars and sixteen cents. It exceeded the mean of the two preceding years, by one million, five hundred ninety-seven thousand, nine hundred and eighty-three dollars and thirty-six cents. Our revenues are unquestionably more productive than was looked for. Those from imports have exceeded, in a year, four millions, six hundred thousand dollars. Of the increase of our manufactures we have no precise standard, but those, who attend most to the subject, entertain no doubt that they are progressive.

This certainly is not a state of things that invites to hazardous experiments. These are perhaps never justifiable, but when the affairs of a nation are in an unprosperous train.

We experience, indeed, some embarrassments from the effects of the European war, but these are temporary, and will cease with that war, which of itself offers us some indemnifications, I mean a freer trade to the West Indies.

I am greatly mistaken if the considerations, which have been suggested, do not conclusively prove the impolicy of the plan which is now recommended for



our adoption. So strong and decided is my own conviction, that I cannot but persuade myself, that of the committee will lead to its rejection.

A few miscellaneous observations will conclude what I have to offer on this very interesting subject.

1. It has been made an objection to the present footing on which our trade is with Great Britain, that it is regulated by annual proclamation of the executive, instead of a permanent law. This was at first laid down by the secretary of state in terms so general as to include the West Indies; but he has since corrected the error, and told us that our trade with the British West Indies is regulated by a standing law. The fact itself, nevertheless, is of no real importance. The actual footing, on which we are placed, is the only material point; the mode of doing it is of little consequence. The annual proclamation of the British executive is equivalent to the decree, revocable at pleasure, of any single legislator, of the monarch of Spain or Portugal, and it may be added, of the French convention, which, though a numerous body, yet forming only one assembly, without checks, is as liable to fluctuation as a single legislator; and in fact, its resolutions have been found as fickle and variable, as it was possible for the resolutions of any single person to be. To prove this, if proof were required, it would be only necessary to refer to the frequent changes in the regulations they have made with regard to the trade of this country—to-day one thing, to-morrow another. Instability is more applicable to no political institution than to a legislature, consisting of a single popular assembly.

2. The additional duties proposed, are objectionable, because the existing duties are already, generally speaking, high enough for the state of our mercantile capital and the safety of collection. They are near twenty *per centum* on an average, upon the value of the objects on which they are laid; higher than the duties of several countries, and high enough for our present condition. To augment the rates materially will

be in the abstract to oppress trade ; for we must have for our consumption the manufactures of the country on which they are proposed to be laid.

3. To serve as a contrast to the conduct of Great Britain, we are told of the liberal overtures for a commercial treaty lately made by France.

It has been already remarked, that the conduct of France towards us since the commencement of the revolution, is no basis of reasoning : it has undergone as many revolutions as their political systems : their measures at one period, with respect to our tobacco, were of a complexion peculiarly hostile to us. The duty of twenty-five livres per kentle on that article, carried in our bottoms to France, and of only eighteen livres fifteen sous on the same article, carried in French bottoms, amounted to a complete prohibition to carry our tobacco in our own bottoms.

The duty of twenty livres per kentle on foreign fish is another important instance of severity of regulations, a duty admitted by the secretary of state to be prohibitory.

If there have been regulations and propositions of a more favorable nature, they are to be ascribed to causes of the moment. During the continuance of the revolution, it is of necessity that we have *carte blanche* in the French West Indies. We know that we are getting admission into the British and Spanish Islands also.

And as to the overtures for a permanent system, Mr. Genet's instructions published by him explain the object. Privileges of trade in the West India Islands are to be the price of our becoming a party in the war. The declamations against the liberticide maxims of the ancient government and in favor of free principles of commerce, resolve themselves into this. This is a bargain which I trust a majority of this house will not be willing to make ; I am sure our constituents would not thank us for it.

But it may be asked, are we to sit with folded arms and tamely submit to all the oppressions, restrictions



and exclusions to which our trade is subject—if not, what are we to do? I answer, nothing certainly at the present juncture. If the foundation of the question were more solid than I believe it to be, candidly and dispassionately considered, this is of all moments the most unfavorable for an experiment. Any movement of the kind would, as before observed, be construed into a political manœuvre and an attempt to embarrass one of the belligerent powers, and would interest the feelings of all those united with her, producing consequently either war or additional trammels in every quarter upon our trade; besides the weighty argument, that the great source of subsidiary supply to which we might have heretofore looked has been obstructed.

But I answer further, that we ought with great caution to attempt any thing at a future day, till we have acquired a maturity which will enable us to act with greater effect, and to brave the consequences, even if they should amount to war, and till we have secured more adequate means of internal supply; to which point we should bend our efforts, as the only rational and safe expedient, in our present circumstances, for counteracting the effects of the spirit of monopoly, which more or less tinctures not the system of Great Britain merely, but that of all Europe. But this it seems is not the favorite course, it is not high seasoned enough for our political palate; we not only turn aside from it with neglect, but we object away the plainest provisions of the constitution to disable ourselves from pursuing it.

Every year, for years to come, will make us a more important customer to Great Britain, and a more important furnisher of what she wants. If this does not lead to such a treaty of commerce as we desire, the period is not very distant when we may insist with much better effect on what we desire, without any thing like the same degree of hazard. This last observation is not meant to be confined to Great Britain, but to extend to any other power, as far as the stipulations of treaty may permit.

Wisdom admonishes us to be patient, "to make haste slowly." Our progress is and will be rapid enough, if we do not throw away our advantages. Why should we be more susceptible than all the world? Why should this young country throw down the gauntlet in favor of free trade against the world? There may be spirit in it, but there will certainly not be prudence.

But again it may be asked, shall we put nations, disposed to a more liberal system, upon the same footing with those differently disposed? Will not this tend to produce an unfriendly treatment from all?

I answer first, that I think it has been proved, that the nation against which we have been invited principally to aim our artillery, treats us with at least as much liberality as other nations, I mean in a commercial sense.

I answer secondly, that if there be nations, who are seriously disposed to establish with us more free and beneficial principles of trade, the path is plain; let treaties be formed, fixing upon a solid basis the privileges which we are to enjoy, and the equivalent. I have no objection to granting greater privileges to one power than to another, if it can be put on the stable foundation of contract, ascertaining the boon and the equivalent. But I think it folly to be granting voluntarily boons at the expense of the United States without equivalent. The mode of treaty secures the ground; it is inoffensive to any third power. Our reply to objections would in that case be, "here is the price to us clearly defined and fixed by treaty, for which we grant the greater advantages of which you complain: give us the price, and the like advantages are yours." But capriciously to grant greater privileges by law to one nation than to another, when, upon a fair comparison, we are not better treated by one than by another, is neither equitable, politic, nor safe.

Let us then leave changes for the present to the course of national treaties, and continue to proceed in the path in which we have hitherto found prosperity and safety.



# SPEECH OF JOHN NICHOLAS,

ON

MR. MADISON'S RESOLUTIONS,

DELIVERED IN THE HOUSE OF REPRESENTATIVES OF THE UNITED  
STATES, JANUARY 16, 1794.



In the committee of the whole, Mr. Nicholas spoke as follows :

MR. CHAIRMAN,

I FEEL a great embarrassment, in speaking on this subject, from a distrust of my ability to treat properly its acknowledged importance, and from the apparent expectation of the audience. I feel too, as the member from Maryland who spoke yesterday did, from the imputation of motives, well knowing that the Representatives of my country are industriously reported to be enemies of the government, and promoters of anarchy, and that the present measure is imputed to these principles. It is somewhat remarkable, that farther North we are charged with selfishness and want of attachment to the general welfare, for a supposed opposition to measures of the import of the present. I mention this contradictory inference, to show that the shameful designs, charged upon us, are not proved by the fact, and to place the guilt where it only exists, in the malignity of the accuser.

It is a commonly received opinion, that trade should be entrusted to the direction of those immediately interested in it, and that the actual course of it, is the best which it could take; this principle is by no means

a safe one, and as applied to the trade of America, is extremely fallacious. It can never be just, where the beginning and growth of commerce have not been free from all possible constraint as to its direction, as that can never be called a business of election, which has been created under foreign influence. The manner in which America was first peopled, and the nurture she received from Great Britain, afford the most striking contrast to the requisite beforementioned. The first inhabitants of America were educated in Great Britain, and brought with them all the wants of their own country; to be gratified chiefly by the productions of that country, aided by British capital in the settlement of the wilderness; and depending on the same means for the conveyance of its produce to a place of consumption, it was inevitable that the demand for British commodities should keep pace with the improvement of the country. In the commencement of American population and during its early stages, there does not appear to have been a chance of comparing the advantages of commercial connexion with different countries, and it will be found, that in its progress it was still more restrained. In the last years of the dependence of America on Great Britain, the principal part of America was occupied by large trading companies, composed of people in Great Britain, and conducted by factors, who sunk large sums in the hands of the farmers to attach them to their respective stores, by which means, competition was precluded, and a dependence on the supplies of those stores completely established. Since the revolution, the business has been conducted by persons in the habit of dependence on Great Britain, and who had no other capital than the manufactures of that country, furnished on credit. The business is still almost wholly conducted by the same means. In no stage of its growth then, does there appear to have been a power in the consumer to have compared the productions of Great Britain, with those of any other country, as to their quality or



price, and therefore there is no propriety in calling the course of trade, the course of its choice.

The subject before the committee, naturally divides itself into navigation and manufactures, in speaking of which, I shall offer some other considerations, to show that the same effects are by no means to be expected from the greatest commercial wisdom in individuals, which are in the power of the general concert of the community; the one having in view profit on each separate transaction, the other promoting an advantageous result to the whole commerce of the country.

In considering the importance of navigation to all countries, but especially to such as have so extensive a production of bulky articles, as America, I think I shall show that the last observation is accurately right, and that the interest of the whole community, not those only who are the carriers, but those also who furnish the object of carriage, positively demands a domestic marine, equal to its whole business, and that, even if it is to exist under rates higher than those of foreign navigation, it is to be preferred. In circumstances of tolerable equality, that can never however entirely be the case; for in the carriage of the produce of one country, by the shipping of another, to any other place than the country to which the shipping belongs, there is considerably more labor employed, than would have been by domestic shipping, as the return to their own country, is to be included. On this ground, it may be confidently asserted, that where the materials of navigation are equally attainable, they will always be more advantageously employed by the country for whose use they are intended, and that if under such circumstances, another country is employed as the carrier, it must be under the influence of some other cause than interest, as it respects that particular business. A dependence on the shipping of another country, tends to establish a place of deposit in that country, of those exports which are for the use of others, if it is at a convenient distance from them. The super-

intendence of property, makes short voyages desirable for the owner, and the connexion, that soon takes place, between the money capital of a country and its shipping interests, greatly strengthens the vortex. The attainment of wealth beyond the demands of navigation, leads to an interest in the cargo itself, and then the agency in selling to the consumer, becomes important. It is apparent, that as the final sale depends on the wants of the purchaser, all intermediate expenses of care and agency, must be taken from the price to which the maker would be entitled. Our own commerce has involved this loss in a remarkable degree, and it has gone to an enormous extent, from a necessity of submitting to the perfidy of agents, arising from a dependence established by means of the so much boasted credit.

That there is this tendency in the employment of foreign shipping, is not only proved by the commercial importance of Holland, which became thus from her naval resources, the store-house of Europe, without furnishing any thing from her own productions, but also from the varied experience of America. Before the revolution, every thing for European consumption was carried to Great Britain; but since America has possessed shipping of her own, and in the northern states, there has been an accession of capital, the export to England is reduced one half. It is true indeed, that there is still nearly one half of what she receives, that is re-exported; but it will be found, that she still retains a proportionate share of those influences, which formerly carried the whole. Great Britain, under all the discouragements of our laws, which we are told by the mercantile members of the committee, amount to a prohibition where they have any rivals, did, until the European war, possess one third of the foreign tonnage employed in America. This has been supported by the dependence into which the southern states were placed by credit, and here, as in every other step of the connexion, this engine extorts ad-



vantages from us, beyond the compensation which is always secured in the first advance. If there is wanted other proof of the British interest in the American navigation, being supported in direct opposition to our interests, it may be found in the comparative state of the tonnage employed, where it appears that, after the protecting duties once had their effect, the additional tonnage, to a considerable amount, has been entirely American, and that the British tonnage has remained very nearly stationary, and in proportion to their undue influence.

In time of war, in addition to the inconveniences before stated, which are enhanced by throwing the trade from its accustomed channel, there are great and important losses brought on a country by this kind of dependence. If your carriers are parties to the war, you are subjected to war freight and war insurance on your cargo, and you are cut off from all the markets to which they are hostile; and indeed, from our experience in the present war, I may say you are cut off from the market of your carriers themselves, as it would have been impossible for British vessels to have escaped in our seas last summer. To what extent this loss goes, may be seen from a calculation in the secretary of state's report on the fisheries, making the proportion of war to that of peace in the last one hundred years, as forty-two to one hundred; and on that calculation there can be no hesitation in determining that the interest of the farmers requires that this foreign dependence should end here. But the European war, by making a temporary exclusion of British shipping, has already brought on us the greatest mischief of such a regulation, and by the encouragement it has afforded to our shipping, almost completed the remedy; so that we have reason to consider this as a fortunate period. But it is not merely the advancement of our marine that is contemplated by the present resolutions; the security of that which we have, is also dependent on them. The danger

from the Algerines has been estimated in this house at five *per centum* on the vessel and cargo, but the whole encouragement to our own shipping in our existing laws, consists in the one tenth additional duty on goods imported in foreign vessels. Whenever there shall be an European peace, which cannot be far distant, the whole difference between the two sums will be a direct encouragement on British ships, and will probably be equal to two freights. Do gentlemen rely on the precarious prospect of building frigates, and the more precarious service to be rendered by them when built, so much as to neglect any other regulations for the safety of our shipping, when they are so much in their power?

Having shown, that the actual state of our commerce is by no means the most beneficial, as far as navigation is concerned, I will proceed to consider the benefits derived from the consumption of those European manufactures, which form the principal part of the stores of America: and here it may safely be said, that national policy by no means justifies the almost exclusive preference, given to those of Great Britain. It is not always true, that the commodity which is bought for least money is the best bargain; for the means of payment form an important consideration in all traffic, and accommodations in it, may more than counterbalance an inequality of price. If one man will receive an article in exchange, which you can sell to no other, it will certainly be a saving to deal with him, at a high advance on his property. If there are countries which would become great consumers of American produce, on the terms of reciprocal consumption, and we find a difficulty, as is often the case, in vending that produce, is it not of great national importance to excite those acts, which are to become the foundation of the connexion, even if in the first instance, it is to be attended with inconvenience and loss? France may be made a connexion of this sort; she is at this time, almost, if not quite on a footing



with Great Britain in the consumption of American products, and every hand which shall receive employment from us, will add to her wants. We are told, that it is of no less importance to us to find a country which can supply us advantageously, than one which will consume our productions, and that, as commerce is no longer carried on by barter, it is no less beneficial to sell in one country and buy in another, than if we could complete the exchange in the same country. This might be true, if your production was limited, and the demand for it certain; but with a greatly improving agriculture, and some risk in our markets, the object is important. Great Britain being the factory of those things, which would make her most dependent on the agricultural interest, and her national wealth being probably at the greatest height, there is no expectation that her consumption will increase. On the other hand, as labor is now to receive its direction in France to the manufacturing arts, so far as concerns America you will take from the agricultural strength a large class of people, and by that means create a dependence on you, at least to the amount of their own consumption, and the wealth you will diffuse, will give ability to thousands who are now too poor to bid for your commodities. Nor is it probable that you will purchase this important benefit, on very disadvantageous terms; for it is agreed on all hands, that many important arts are well understood there, and that labor, which forms the principal part of the cost of most articles, is considerably cheaper in France, than in England.

Another very important operation of a discrimination in favor of France, will be, that by encouraging liberal industry, you may put an end to some practices, which, in the existing state of consumption, greatly depreciate our commodities; I mean the public provision made in granaries, and the supply from them in times of scarcity, which destroy the competition that raises every thing to its just value. Different conse-

quences have been foretold, as likely to result from those measures, to which I shall give a short examination. We are told, that the preference, long since given by our laws, has been equal to a prohibition of British vessels, and that to the extent to which it has gone, the best effects have been produced. To secure this operation from a recent attack, and at the same time to extend it to some branches of trade, to which its principle would equally extend, is the object of the marine resolutions. We have no reason to apprehend bad effects from an action, which has hitherto had good consequences. As to the increased duties on manufactures, I think the prospect in no way threatening, for if there should be found no country to supply our wants on better terms, the diminution of consumption will be only in proportion to the duty. This can be by no means alarming, considered as the worst consequence of the measure to men, with whom the impost is the favorite mode of collecting the revenue, at a time when the public wants are equal to any possible produce. If there shall be found a competitor with Great Britain for our consumption, the great object will be attained, as it must be accompanied by a corresponding consumption of American productions. But we are told, that there will be a conflict of commercial regulations between this country and Great Britain, and that the consequence will be the loss of the market she affords us. The probable consequences of such a conflict, will best determine whether it is to be expected ; as it will commence on her part as well as ours, with a view to consequences. The danger, which she can alone apprehend, is the loss of the market for her manufactures, and to obviate this, it would be absurd to widen the breach between us, as that would tend, in a direct proportion, to the establishment of unfriendly habits, and manufactures, either here or in other countries, which would rival her own. If, however, the ultimate advantage would justify such measures, the immediate distress of her people would forbid it.



The American trade must be the means of distributing bread to several hundred thousand persons, whose occupation would be wholly ended with the trade, and the government is by no means in a situation to bear their discontent.

Their navigation and manufactures draw many important ingredients from America, which would be lost to them. The creditors of the people of America to an immense amount, would be deprived of the remittances which depend on a friendly intercourse. On the whole, it would add to the disorders of the government among those, who perhaps have heretofore contributed to its support, without gratifying any thing but an arrogant resentment. But we are told, that our own citizens would be equal sufferers, and are more to be injured by being stopped in a career of rapid improvement: it will be hard to anticipate any real misfortune to America, in such a contest, unless the temporary loss of indulgences, which are by no means necessary, can be so called. The consumption of Great Britain is, according to the most friendly calculation, not more than one third of our purchases from her, and therefore the national wealth, independent of the gratification of our appetites, will receive an immense addition, and a vast fund will be procured to make lasting and valuable improvements, which would be degraded by comparison with the gewgaws of a day. It is to be remarked, that the diminution of our exports would be divided among large classes of people, and in all cases rather form a deduction from the annual income, than a total loss: this will result from the various objects of American industry and the division of the markets of its produce. This forms an important difference between America and Great Britain, in an estimate of the effects of a rupture between the two countries. In my opinion, the habits of the southern states are such as to require the control, which is said to be the consequence of these measures. Under the facility offered by the modes of trade before spoken of, and the credit which is said to

be so beneficial, they have not only involved themselves in debt, but have contracted habits, which, with the power of gratification, must always keep them so. We did hope that the administration of justice would have corrected the evil, but we now find that it cannot be corrected but by entire changes. It is founded in the policy of the merchant himself, and this circumstance is enough to present to the minds of the committee a long train of dependent mischiefs; it is a fact, supported by the best evidence, that our merchants who get their goods from the manufacturer, pay as much for them as the shopkeeper, who buys at Baltimore or Philadelphia. This is one of the consequences of the want of credit, which always will follow a reliance on collection from farmers; and there can be no doubt, that the merchant is indemnified for his disgrace, as well as his advance. The result of the whole train of indulgence is, that our goods are bought at an advance from a half to one fourth of what they could be afforded for in cash sales; nor does the mischief stop here; it brings a subjection which materially affects the sale of our produce. I believe myself, that the war with Great Britain did not bring half the mischief on us that their credit has, and I very much suspect that a credit for consumption will always be found equally mischievous. It by no means resembles money loans, as is insinuated by the gentleman from South Carolina, by freeing a man's own resources for any other use. It is certain, that there is no other safe regulation of a farmer's expenses, than his income and experience every day proves—that when so regulated they always fall short of the income, and that when they depend on credit they always exceed it, and thereby subject future revenue. Lessening the importation of foreign manufactures will increase our household fabrics, which experience has proved to be highly profitable, as the labor is done by a part of the community of little power in any other application. Regular efforts in this way have been, in my country, certainly productive of independence.



It is acknowledged, that we may derive great advantages from France in our commerce; but it is said they should be secured by treaty, and we should not pay beforehand for them. If advantages are to be drawn by treaty from foreign nations, to enable the executive to procure them we must advance the impost beyond the revenue standard, or they will have nothing to give in exchange. Will gentlemen agree to involve France in this measure indiscriminately, when we have already a commercial treaty with her, which was concomitant with that treaty which gave us independence? Will they, under such proofs of friendliness, and while they are laboring under a revolution that must strengthen our connexion, show distrust of their justice, when the distinction now proposed may give them a knowledge of those advantages they may derive from our trade, and thereby make them more eager for a permanent contract? It will be always in our power, when we find ourselves deceived, to restore the equality with Great Britain. We are asked, what will become of our revenue under such an establishment? The answer is obvious from my former observations. If the consumption is reduced only by means of revenue, the revenue will increase; if it is lessened by competition, it will not be diminished, for the present rates will continue on all foreign goods, and we shall be better able to pay from the improvement of our foreign markets. But if there should be a diminution without lessening the power of the people to pay, what mischief will there be? Every body understands that the people pay the revenue, although it is collected by custom-house officers; and there is reason to believe, that the expense of collection is greater in that way than any other, as there is not only the apparent expense, but a secret compensation to the merchants for advancing it.

But we are told, that we are including countries, in the general description, which are our best customers—Spain, Portugal, the Hanse Towns and Denmark. It

will be found, that they are little within the reach of the propositions, not being carriers and in a small degree manufacturers of the articles to be taxed. It will be in the power of the legislature to save them, in filling up the blanks; but this is not intended to shut out any nation, which chooses to trade with us on liberal terms, and if we are satisfied with our footing in their trade, there is no doubt but we can secure it by treaty: they will not complain of our taking away benefits, which they may resume at any time. We are told, that this business is merely commercial, and that we should not think of our political relations to Great Britain; but in my opinion, most of our grievances have commercial objects, and therefore are to be remedied by commercial resistance; if you take away what is contended for, contest must end. The Indian war and the Algerine attack, have both commercial views, or Great Britain must stand without excuse for instigating the most horrid cruelties. I consider, however, the propositions before you, as the strongest weapon America possesses, and the most likely to restore her to all her rights, political and commercial and I trust I have shown, that the means will have a beneficial effect, if they should fail as a remedy with respect to Great Britain.



*La M. D. p. 419*

SPEECH OF FISHER AMES,

ON

MR. MADISON'S RESOLUTIONS.

DELIVERED IN THE HOUSE OF REPRESENTATIVES OF THE  
UNITED STATES, JANUARY 27, 1794.



In the committee of the whole, Mr. Ames spoke as follows :

MR. CHAIRMAN,

THE question lies within this compass : is there any measure proper to be adopted by Congress, which will have the effect to put our trade and navigation on a better footing? If there is, it is our undoubted right to adopt it, (if by right is understood the power of self-government, which every independent nation possesses,) and our own as completely as any other ; it is our duty also, for we are the depositaries and the guardians of the interests of our constituents, which, on every consideration, ought to be dear to us. I make no doubt they are so, and that there is a disposition sufficiently ardent existing in this body, to co-operate in any measures for the advancement of the common good. Indeed, so far as I can judge from any knowledge I have of human nature, or of the prevailing spirit of public transactions, that sort of patriotism, which makes us wish the general prosperity, when our private interest does not happen to stand in the way, is no uncommon sentiment. In truth, it is very like self-love, and not much less prevalent. There is little occasion to excite and inflame it. It is, like self-love, more apt to want intelligence than zeal.

The danger is always, that it will rush blindly into embarrassments, which a prudent spirit of inquiry might have prevented, but from which it will scarcely find means to extricate us. While therefore the right, the duty, and the inclination to advance the trade and navigation of the United States, are acknowledged and felt by us all, the choice of the proper means to that end is a matter requiring the most circumspect inquiry, and the most dispassionate judgment.

After a debate has continued a long time, the subject very frequently becomes tiresome before it is exhausted. Arguments, however solid, urged by different speakers, can scarcely fail to render the discussion both complex and diffusive. Without pretending to give to my arguments any other merit, I shall aim at simplicity.

We hear it declared, that the design of the resolutions, is to place our trade and navigation on a better footing. By better footing, we are to understand a more profitable one. Profit is a plain word, that cannot be misunderstood.

We have, to speak in round numbers, twenty million dollars of exports annually. To have the trade of exports on a good footing, means nothing more than to sell them dear; and consequently, the trade of import on a good footing, is to buy cheap. To put them both on a better footing, is to sell dearer and to buy cheaper than we do at present. If the effect of the resolutions will be, to cause our exports to be sold cheaper, and our imports to be bought dearer, our trade will suffer an injury.

It is hard to compute how great the injury would prove; for the first loss of value in the buying dear, and selling cheap, is only the symptom and beginning of the evil, but by no means the measure of it; it will withdraw a great part of the nourishment, that now supplies the wonderful growth of our industry and opulence. The difference may not amount to a great proportion of the price of the articles, but it may reach



the greater part of the profit of the producer; it may have effects in this way which will be of the worst kind, by discouraging the products of our land and industry. It is to this test I propose to bring the resolutions on the table; and if it shall clearly appear, that they tend to cause our exports to be sold cheaper, and our imports to be bought dearer, they cannot escape condemnation. Whatever specious show of advantage may be given them, they deserve to be called aggravations of any real or supposed evils in our commercial system, and not remedies.

I have framed this statement of the question so as to comprehend the whole subject of debate, and at the same time, I confess it was my design to exclude from consideration a number of topics, which appear to me totally irrelative to it.

The best answer to many assertions we have heard is, to admit them without proof. We are exhorted to assert our natural rights; to put trade on a respectable footing; to dictate terms of trade to other nations; to engage in a contest of self-denial, and by that, and by shifting our commerce from one country to another, to make our enemies feel the extent of our power. This language, as it respects the proper subject of discussion, means nothing, or what is worse. If our trade is already on a profitable footing, it is on a respectable one. Unless war be our object, it is useless to inquire, what are the dispositions of any government, with whose subjects our merchants deal to the best advantage. While they will smoke our tobacco, and eat our provisions, it is very immaterial, both to the consumer and the producer, what are the politics of the two countries, excepting so far as their quarrels may disturb the benefits of their mutual intercourse.

So far, therefore, as commerce is concerned, the inquiry is, have we a good market?

The good or bad state of our actual market is the question. The actual market is every where more or less a restricted one, and the natural order of things is

displaced by the artificial. Most nations, for reasons of which they alone are the rightful judges, have regulated and restricted their intercourse, according to their views of safety and profit. We claim for ourselves the same right, as the acts in our statute book, and the resolutions on the table evince, without holding ourselves accountable to any other nation whatever. The right, which we properly claim, and which we properly exercise, when we do it prudently and usefully for our nation, is as well established, and has been longer in use in the countries of which we complain, than in our own. If their right is as good as that of Congress, to regulate and restrict, why do we talk of a strenuous exertion of our force, and by dictating terms to nations, who are fancied to be physically dependent on America, to change the policy of nations? It may be very true, that their policy is very wise and good for themselves, but not as favorable for us as we could make it, if we could legislate for both sides of the Atlantic.

The extravagant despotism of this language accords very ill with our power to give it effect, or with the affectation of zeal for an unlimited freedom of commerce. Such a state of absolute freedom of commerce never did exist, and it is very much to be doubted whether it ever will. Were I invested with the trust to legislate for mankind, it is very probable the first act of my authority would be to throw all the restrictive and prohibitory laws of trade into the fire; the resolutions on the table would not be spared. But if I were to do so, it is probable I should have a quarrel on my hands with every civilized nation. The Dutch would claim the monopoly of the spice trade, for which their ancestors passed their whole lives in warfare. The Spaniards and Portuguese would be no less obstinate. If we calculate what colony monopolies have cost in wealth, in suffering, and in crimes, we shall say they were dearly purchased. The English would plead for their navigation act, not as a



source of gain, but as an essential means of securing their independence. So many interests would be disturbed, and so many lost, by a violent change from the existing to an unknown order of things; and the mutual relations of nations, in respect to their power and wealth, would suffer such a shock, that the idea must be allowed to be perfectly Utopian and wild. But for this country to form the project of changing the policy of nations, and to begin the abolition of restrictions by restrictions of its own, is equally ridiculous and inconsistent.

Let every nation that is really disposed to extend the liberty of commerce, beware of rash and hasty schemes of prohibition. In the affairs of trade, as in most others, we make too many laws. We follow experience too little, and the visions of theorists a great deal too much. Instead of listening to discourses on what the market ought to be, and what the schemes, which always promise much on paper, pretend to make it, let us see what is the actual market for our exports and imports. This will bring vague assertions and sanguine opinions to the test of experience. That rage for theory and system, which would entangle even practical truth in the web of the brain, is the poison of public discussion. One fact is better than two systems.

The terms, on which our exports are received in the British market, have been accurately examined by a gentleman from South Carolina, (Mr. Wm. L. Smith.) Before his statement of facts was made to the committee, it was urged, and with no little warmth, that the system of England indicated her inveteracy towards this country, while that of France, springing from disinterested affection, constituted a claim for gratitude and self-denying measures of retribution.

Since that statement, however, that romantic style, which is so ill adapted to the subject, has been changed. We hear it insinuated, that the comparison of the footing of our exports, in the markets of France and England, is of no importance; that it is chiefly

our object to see how we may assist and extend our commerce. This evasion of the force of the statement, or rather this indirect admission of its authority, establishes it. It will not be pretended, that it has been shaken during the debate.

It has been made to appear, beyond contradiction, that the British market for our exports, taken in the aggregate, is a good one; that it is better than the French, and better than any we have, and for many of our products the only one.

The whole amount of our exports to the British dominions, in the year ending the 30th September, 1790, was nine million, two hundred and forty-six thousand, six hundred and six dollars.

But it will be more simple and satisfactory to confine the inquiry to the articles following: bread stuff, tobacco, rice, wood, the produce of the fisheries, fish oil, pot and pearl ash, salted meats, indigo, live animals, flax seed, naval stores and iron.

The amount of the beforementioned articles, exported in that same year to the British dominions, was eight million, four hundred and fifty-seven thousand, one hundred and seventy-three dollars.

We have heard so much of restriction of inimical and jealous prohibitions to cramp our trade, it is natural to scrutinize the British system, with the expectation of finding little besides the effects of her selfish and angry policy.

Yet of the great sum of nearly eight millions and a half, the amount of the products beforementioned sold in her markets, two articles only are dutied by way of restriction. Bread stuff is dutied so high in the market of Great Britain as, in times of plenty, to exclude it, and this is done from the desire to favor her own farmers. The mover of the resolutions justified the exclusion of our bread stuff from the French West Indies by their permanent regulations, because, he said, they were bound to prefer their own products to those even of the United States. It would seem that the



same apology would do for England, in her home market. But what will do for the vindication of one nation becomes invective against another. The criminal nation, however, receives our bread stuff in the West Indies free, and excludes other foreign, so as to give our producers the monopoly of the supply. This is no merit in the judgment of the mover of the resolutions, because it is a fragment of her old colony system. Notwithstanding the nature of the duties on bread stuff in Great Britain, it has been clearly shown, that she is a better customer for that article, in Europe, than her neighbor, France. The latter, in ordinary times, is a poor customer for bread stuff, for the same reason that our own country is, because she produces it herself, and therefore France permits it to be imported, and the United States do the like. Great Britain often wants the article, and then she receives it; no country can be expected to buy what it does not want. The bread stuff sold in the European dominions of Britain, in the year 1790, amounted to one million, eighty-seven thousand, eight hundred and forty dollars.

Whale oil pays the heavy duty of eighteen pounds three shillings sterling per ton; yet spermaceti oil found a market there to the value of eighty-one thousand and forty-eight dollars.

Thus it appears, that of eight millions and a half, sold to Great Britain and her dominions, only the value of one million, one hundred and sixty-eight thousand dollars was under duty of a restrictive nature. The bread stuff is hardly to be considered as within the description; yet, to give the argument its full force, what is it? about one eighth part is restricted. To proceed with the residue :

Indigo to the amount of	-	-	-	\$473,830
Live animals to the West Indies	-	-	-	62,415
Flax-seed to Great Britain	-	-	-	219,924
Total,				<u>\$756,169</u>

These articles are received, duty free, which is a good foot to the trade. Yet we find, good as it is, the bulk of our exports is received on even better terms:

Flour to the British West Indies	\$858,006
Grain	273,505
Free—while other foreign flour and grain are prohibited.	
Tobacco to Great Britain	2,754,493
Ditto to the West Indies	22,816
One shilling and three pence sterling, duty ; three shillings and six pence on other foreign tobacco.	
In the West Indies, other foreign tobacco is prohibited.	
Rice to Great Britain	773,852
Seven shillings and four pence per cwt. duty ; eight shillings and ten pence on other foreign rice.	
To West Indies	180,077
Other foreign rice prohibited.	
Wood to Great Britain	240,174
Free—higher duties on other foreign.	
To West Indies	382,481
Free—other foreign prohibited.	
Pot and pearl ashes	747,072
Free—two shillings and three pence on other foreign, equal to ten dollars per ton.	
Naval stores to Great Britain	190,670
Higher duties on other foreign.	
To West Indies	6,162
Free—other foreign prohibited.	
Iron to Great Britain	31,612
Free—duties on other foreign.	
	<hr/>
	\$6,510,926
	<hr/>

Thus it appears, that nearly seven eighths of the exports to the British dominions are received on terms of positive favor. Foreigners, our rivals in the sale of these articles, are either absolutely shut out of their market by prohibitions, or discouraged in their competition with us by higher duties. There is some restriction, it is admitted, but there is, to balance it, a large amount received duty free; and a half goes to the account of privilege and favor. This is better than she treats any other foreign nation. It is better, indeed, than she treats her own subjects, because they



are by this means deprived of a free and open market. It is better than our footing with any nation, with whom we have treaties. It has been demonstratively shown, that it is better than the footing on which France receives either the like articles, or the aggregate of our products. The best proof in the world is, that they are not sent to France. The merchants will find out the best market sooner than we shall.

The footing of our exports, under the British system, is better than that of their exports to the United States, under our system. Nay, it is better than the freedom of commerce, which is one of the visions for which our solid prosperity is to be hazarded; for, suppose we could batter down her system of prohibitions and restrictions, it would be gaining a loss; one eighth is restricted, and more than six eighths have restrictions in their favor. It is as plain as figures can make it, that, if a state of freedom for our exports is at par, the present system raises them, in point of privilege, above par. To suppose that we can terrify them by these resolutions, to abolish their restrictions, and at the same time to maintain in our favor their duties, to exclude other foreigners from their market, is too absurd to be refuted.

We have heard, that the market of France is the great centre of our interests; we are to look to her, and not to England, for advantages, being, as the style of theory is, our best customer and best friend, showing to our trade particular favor and privilege; while England manifests in her system such narrow and selfish views. It is strange to remark such a pointed refutation of assertions and opinions by facts. The amount sent to France herself is very trivial. Either our merchants are ignorant of the best markets, or those which they prefer are the best; and if the English markets, in spite of the alleged ill usage, are still preferred to the French, it is a proof of the superior advantages of the former over the latter. The arguments I have adverted to, oblige those who urge

them to make a greater difference in favor of the English than the true state of facts will warrant. Indeed, if they persist in their arguments, they are bound to deny their own conclusions. They are bound to admit this position: if France receives little of such of our products as Great Britain takes on terms of privilege and favor, because of that favor, it allows the value of that favored footing. If France takes little of our articles, because she does not want them, it shows the absurdity of looking to her as the best customer.

It may be said, and truly, that Great Britain regards only her own interest in these arguments; so much the better. If it is her interest to afford to our commerce more encouragement than France gives: if she does this, when she is inveterate against us, as it is alleged, and when we are indulging an avowed hatred towards her, and partiality towards France, it shows that we have very solid ground to rely on. Her interest is, according to this statement, stronger than our passions, stronger than her own, and is the more to be depended on, as it cannot be put to any more trying experiment in future. The good will and friendship of nations are hollow foundations to build our systems upon. Mutual interest is a bottom of rock: the fervor of transient sentiments is not better than straw or stubble. Some gentlemen have lamented this distrust of any relation between nations, except an interested one; but the substitution of any other principle could produce little else than the hypocrisy of sentiment, and an instability of affairs. It would be relying on what is not stable, instead of what is: it would introduce into politics the jargon of romance. It is in this sense, and this only, that the word favor is used: a state of things, so arranged as to produce our profit and advantage, though intended by Great Britain merely for her own. The disposition of a nation is immaterial; the fact, that we profit by their system, cannot be so to this discussion.



The next point is, to consider whether our imports are on a good footing, or, in other words, whether we are in a situation to buy what we have occasion for at a cheap rate. In this view, the systems of the commercial nations are not to be complained of, as all are desirous of selling the products of their labor. Great Britain is not censured in this respect. The objection is rather of the opposite kind, that we buy too cheap, and therefore consume too much; and that we take not only as much as we can pay for, but to the extent of our credit also. There is less freedom of importation, however, from the West Indies. In this respect, France is more restrictive than England; for the former allows the exportation to us of only rum and molasses, while England admits that of sugar, coffee and other principal West India products. Yet, even here, when the preference seems to be decidedly due to the British system, occasion is taken to extol that of the French. We are told, that they sell us the chief part of the molasses, which is consumed or manufactured into rum; and that a great and truly important branch, the distillery, is kept up by their liberality in furnishing the raw material. There is at every step, matter to confirm the remark, that nations have framed their regulations to suit their own interests, not ours. France is a great brandy manufacturer; she will not admit rum, therefore, even from her own islands, because it would supplant the consumption of brandy. The molasses was for that reason, some years ago, of no value in her islands, and was not even saved in casks. But the demand from our country soon raised its value. The policy of England has been equally selfish. The molasses is distilled in her islands, because she has no manufacture of brandy to suffer by its sale.

A question remains respecting the state of our navigation. If we pay no regard to the regulations of foreign nations, and ask, whether this valuable branch of our industry and capital is in a distressed and sickly state, we shall find it is in a strong and flourishing

condition. If the quantity of shipping was declining, if it was unemployed, even at low freight, I should say, it must be sustained and encouraged. No such thing is asserted. Seamen's wages are high, freights are high, and American bottoms in full employment. But the complaint is, our vessels are not permitted to go to the British West Indies. It is even affirmed, that no civilized country treats us so ill in that respect. Spain and Portugal prohibit the traffic to their possessions, not only in our vessels, but in their own, which, according to the style of the resolutions, is worse treatment than we meet with from the British. It is also asserted, and on as bad ground, that our vessels are excluded from most of the British markets.

This is not true in any sense. We are admitted into the greater number of her ports, in our own vessels; and by far the greater value of our exports is sold in British ports, into which our vessels are received, not only on a good footing, compared with other foreigners, but on terms of positive favor, on better terms than British vessels are admitted into our own ports. We are not subject to the alien duties; and the light money, &c. of one shilling nine pence sterling per ton is less than our foreign tonnage duty, not to mention the ten *per centum*, on the duties on goods in foreign bottoms.

But in the port of London our vessels are received free. It is for the unprejudiced mind to compare these facts with the assertions we have heard so confidently and so feelingly made by the mover of the resolutions, that we are excluded from most of their ports, and that no civilized nation treats our vessels so ill as the British.

The tonnage of the vessels, employed between Great Britain and her dependences and the United States, is called two hundred and twenty thousand; and the whole of this is represented as our just right. The same gentleman speaks of our natural right to the carriage of our own articles, and that we may and ought



to insist upon our equitable share. Yet, soon after, he uses the language of monopoly, and represents the whole carriage of imports and exports as the proper object of our efforts, and all that others carry as a clear loss to us. If an equitable share of the carriage means half, we have it already, and more, and our proportion is rapidly increasing. If any thing is meant by the natural right of carriage, one would imagine that it belongs to him, whoever he may be, who, having bought our produce, and made himself the owner, thinks proper to take it with him to his own country. It is neither our policy nor our design to check the sale of our produce. We invite every description of purchasers, because we expect to sell dearest, when the number and competition of the buyers is the greatest. For this reason, the total exclusion of foreigners and their vessels from the purchase and carriage of our exports, is an advantage, in respect to navigation, which has a disadvantage to balance it, in respect to the price of produce. It is with this reserve we ought to receive the remark, that the carriage of our exports should be our object, rather than that of our imports. By going with our vessels into foreign ports we buy our imports in the best market. By giving a steady and moderate encouragement to our own shipping, without pretending violently to interrupt the course of business, experience will soon establish that order of things, which is most beneficial to the exporter, the importer, and the ship owner. The best interest of agriculture is the true interest of trade.

In a trade, mutually beneficial, it is strangely absurd to consider the gain of others as our loss. Admitting it, however, for argument sake, yet it should be noticed, that the loss of two hundred and twenty thousand tons of shipping, is computed according to the apparent tonnage. Our vessels not being allowed to go to the British West Indies, their vessels, making frequent voyages, appear in the entries over and over again. In the trade to the European dominions of Great Britain, the

distance being greater, our vessels are not so often entered. Both these circumstances give a false show to the amount of British tonnage, compared with the American. It is, however, very pleasing to the mind, to see that our tonnage exceeds the British in the European trade. For various reasons, some of which will be mentioned hereafter, the tonnage in the West India trade, is not the proper subject of calculation. In the European comparison, we have more tonnage in the British than in the French commerce; it is indeed more than four to one.

The great quantity of British tonnage employed in our trade is also, in a great measure, owing to the large capitals of their merchants, employed in buying and exporting our productions. If we would banish the ships, we must strike at the root, and banish the capital. And this, before we have capital of our own grown up to replace it, would be an operation of no little violence and injury, to our southern brethren especially.

Independently of this circumstance, Great Britain is an active and intelligent rival in the navigation line. Her ships are dearer, and the provisioning of her seamen is perhaps rather dearer than ours: on the other hand, the rate of interest is lower in England, and so are seamen's wages. It would be improper, therefore, to consider the amount of British tonnage in our trade, as a proof of a bad state of things, arising either from the restrictions of that government, or the negligence or timidity of this. We are to charge it to causes, which are more connected with the natural competition of capital and industry; causes, which in fact retarded the growth of our shipping more, when we were colonies and our ships were free, than since the adoption of the present government.

It has been said with emphasis, that the constitution grew out of the complaints of the nation respecting commerce, especially that with the British dominions. What was then lamented by our patriots? Feebleness



of the public councils; the shadow of union, and scarcely the shadow of public credit; every where despondence, the pressure of evils, not only great but portentous of civil distractions. These were the grievances; and what more was then desired than their remedies? Is it possible to survey this prosperous country and to assert that they have been delayed? Trade flourishes on our wharves, although it droops in speeches. Manufactures have risen under the shade of protecting duties, from almost nothing, to such a state, that we are even told we can depend on the domestic supply, if the foreign should cease. The fisheries, which we found in decline, are in the most vigorous growth: the whale fishery, which our allies would have transferred to Dunkirk, now extends over the whole ocean. To that hardy race of men, the sea is but a park for hunting its monsters; such is their activity, the deepest abysses scarcely afford to their prey a hiding place. Look around, and see how the frontier circle widens, how the interior improves, and let it be repeated that the hopes of the people, when they formed this constitution, have been frustrated.

But if it should happen, that our prejudices prove stronger than our senses; if it should be believed, that our farmers and merchants see their products and ships and wharves going to decay together, and they are ignorant or silent on their own ruin; still the public documents would not disclose so alarming a state of our affairs. Our imports are obtained so plentifully and cheaply, that one of the avowed objects of the resolutions is, to make them scarcer and dearer. Our exports, so far from languishing, have increased two millions of dollars in a year. Our navigation is found to be augmented beyond the most sanguine expectation. We hear of the vast advantage the English derived from the navigation act: and we are asked in a tone of accusation, shall we sit still and do nothing? Who is bold enough to say, Congress has done nothing for the encouragement of American navigation? To

counteract the navigation act, we have laid on British, a higher tonnage than our own vessels pay in their ports; and what is much more effectual, we have imposed ten *per centum* on the duties, when the dutied articles are borne in foreign bottoms. We have also made the coasting trade a monopoly to our own vessels. Let those, who have asserted that this is nothing, compare facts with the regulations which produced them.

Tonnage.	Tons.	
American, 1789, -	297,468	Excess of American tonnage.
Foreign - - - -	265,116	
	<hr/>	32,352
American, 1790, -	347,663	
Foreign - - - -	258,916	
	<hr/>	88,747
American, 1791 - -	363,810	
Foreign - - - -	240,799	
	<hr/>	123,011
American, 1792, -	415,330	
Foreign - - - -	244,263	
	<hr/>	171,067

Is not this increase of American shipping rapid enough? Many persons say it is too rapid, and attracts too much capital for the circumstances of the country. I cannot readily persuade myself to think so valuable a branch of employment thrives too fast. But a steady and sure encouragement is more to be relied on than violent methods of forcing its growth. It is not clear, that the quantity of our navigation, including our coasting and fishing vessels, is less in proportion to those of that nation: in that computation we shall probably find, that we are already more a navigating people than the English.

As this is a growing country, we have the most stable ground of dependence on the corresponding growth of our navigation: and that the increasing demand for shipping will rather fall to the share of Americans than foreigners, is not to be denied. We did expect this from the nature of our own laws; we have been confirmed in it by experience; and we know that an American bottom is actually preferred to a foreign one.



In cases where one partner is an American, and another a foreigner, the ship is made an American bottom. A fact of this kind overthrows a whole theory of reasoning on the necessity of further restrictions. It shows, that the work of restriction is already done.

If we take the aggregate view of our commercial interests, we shall find much more occasion for satisfaction, and even exultation, than complaint, and none for despondence. It would be too bold to say, that our condition is so eligible there is nothing to be wished. Neither the order of nature, nor the allotments of providence, afford perfect content; and it would be absurd to expect in our politics what is denied in the laws of our being. The nations, with whom we have intercourse, have, without exception, more or less restricted their commerce. They have framed their regulations to suit their real or fancied interests. The code of France is as full of restrictions as that of England. We have regulations of our own; and they are unlike those of any other country. Inasmuch as the interest and circumstances of nations vary so essentially, the project of an exact reciprocity on our part is a vision. What we desire is, to have, not an exact reciprocity, but an intercourse of mutual benefit and convenience.

It has scarcely been so much as insinuated, that the change contemplated will be a profitable one; that it will enable us to sell dearer and to buy cheaper: on the contrary, we are invited to submit to the hazards and losses of a conflict with our customers; to engage in a contest of self-denial. For what—to obtain better markets? No such thing; but to shut up forever, if possible, the best market we have for our exports, and to confine ourselves to the dearest and scarcest markets for our imports. And this is to be done for the benefit of trade; or, as it is sometimes more correctly said, for the benefit of France. This language is not a little inconsistent and strange from those, who recommend a non-importation agreement, and who think we should even renounce the sea and devote ourselves to agriculture. Thus, to make our trade more free, it is to

be embarrassed, and violently shifted from one country to another, not according to the interest of the merchants, but the visionary theories and capricious rashness of the legislators. To make trade better, it is to be made nothing.

So far as commerce and navigation are regarded, the pretences for this contest are confined to two. We are not allowed to carry manufactured articles to Great Britain, nor any products, except of our own growth; and we are not permitted to go, with our own vessels, to the West Indies. The former, which is a provision of the navigation act, is of little importance to our interests, as our trade is chiefly a direct one, our shipping not being equal to the carrying for other nations; and our manufactured articles are not furnished in quantities for exportation, and if they were, Great Britain would not be a customer. So far, therefore, the restriction is rather nominal than real.

The exclusion of our vessels from the West Indies is of more importance. When we propose to make an effort to force a privilege from Great Britain, which she is loath to yield to us, it is necessary to compare the value of the object with the effort, and above all, to calculate very warily the probability of success. A trivial thing deserves not a great exertion; much less ought we to stake a very great good in possession, for a slight chance of a less good. The carriage of one half the exports and imports to and from the British West Indies, is the object to be contended for. Our whole exports to Great Britain are to be hazarded. We sell on terms of privilege, and positive favor, as it has been abundantly shown, near seven millions to the dominions of Great Britain. We are to risk the privilege in this great amount—for what? For the freight only of one half the British West India trade with the United States. It belongs to commercial men to calculate the entire value of the freight alluded to. But it cannot bear much proportion to the amount of seven millions. Besides, if we are denied the privilege of



carrying our articles in our vessels to the islands, we are on a footing of privilege in the sale of them. We have one privilege, if not two. It is readily admitted, that it is a desirable thing, to have our vessels allowed to go to the English islands; but the value of the object has its limits, and we go unquestionably beyond them, when we throw our whole exports into confusion, and run the risk of losing our best markets, for the sake of forcing a permission to carry our own products to one of those markets; in which too, it should be noticed, we sell much less than we do to Great Britain herself. If to this we add, that the success of the contest is grounded on the sanguine and passionate hypothesis of our being able to starve the islanders, which, on trial, may prove false, and which our being involved in the war would overthrow at once, we may conclude, without going further into the discussion, that prudence forbids our engaging in the hazards of a commercial war; that great things should not be staked against such as are of much less value; that what we possess should not be risked for what we desire, without great odds in our favor; still less, if the chance is infinitely against us.

If these considerations should fail of their effect, it will be necessary to go into an examination of the tendency of the system of discrimination, to redress and avenge all our wrongs, and to realize all our hopes.

It has been avowed, that we are to look to France, not to England, for advantages in trade; we are to show our spirit, and to manifest towards those, who are called enemies, the spirit of enmity, and towards those, we call friends, something more than passive good will. We are to take active measures to force trade out of its accustomed channels, and to shift it by such means from England to France. The care of the concerns of the French manufacturers may be, perhaps, as well left in the hands of the convention, as usurped into our own. However our zeal might engage us to interpose, our duty to our own immediate constituents

demands all our attention. To volunteer it, in order to excite competition in one foreign nation to supplant another, is a very strange business; and to do it, as it has been irresistibly proved it will happen, at the charge and cost of our own citizens, is a thing equally beyond all justification and all example. What is it but to tax our own people for a time, perhaps for a long time, in order that the French may at last sell as cheap as the English?—cheaper they cannot, nor is it so much as pretended. The tax will be a loss to us, and the fancied tendency of it not a gain to this country in the event, but to France. We shall pay more for a time, and in the end pay no less; for no object but that one nation may receive our money, instead of the other. If this is generous towards France, it is not just to America. It is sacrificing what we owe to our constituents, to what we pretend to feel towards strangers. We have indeed heard a very ardent profession of gratitude to that nation, and infinite reliance seems to be placed on her readiness to sacrifice her interest to ours. The story of this generous strife should be left to ornament fiction. This is not the form nor the occasion to discharge our obligations of any sort to any foreign nation: it concerns not our feelings but our interests; yet the debate has often soared high above the smoke of business into the epic region. The market for tobacco, tar, turpentine and pitch, has become matter of sentiment; and given occasion alternately to rouse our courage and our gratitude.

If, instead of hexameters, we prefer discussing our relation to foreign nations in the common language, we shall not find, that we are bound by treaty to establish a preference in favor of the French. The treaty is founded on a professed reciprocity, favor for favor. Why is the principle of treaty or no treaty made so essential, when the favor, we are going to give, is an act of supererogation? It is not expected by one of the nations in treaty: for Holland has declared in her trea-



ty with us, that such preferences are the fruitful source of animosity, embarrassment and war. The French have set no such example. They discriminate, in their late navigation act, not as we are exhorted to do, between nations in treaty and not in treaty, but between nations at war and not at war with them; so that, when peace takes place, England will stand, by that act, on the same ground with ourselves. If we expect by giving favor to get favor in return, it is improper to make a law. The business belongs to the executive, in whose hands the constitution has placed the power of dealing with foreign nations. It is singular to negotiate legislatively; to make by a law half a bargain, expecting a French law would make the other. The footing of treaty or no treaty is different from the ground taken by the mover himself in supporting his system. He has said, favor for favor is principle: nations not in treaty grant favors, those in treaty restrict our trade. Yet the principle of discriminating in favor of nations in treaty, is not only inconsistent with the declared doctrine of the mover and with facts, but it is inconsistent with itself. Nations not in treaty, are so very unequally operated upon by the resolutions, it is absurd to refer them to one principle. Spain and Portugal have no treaties with us, and are not disposed to have: Spain would not accede to the treaty of commerce between us and France, though she was invited: Portugal would not sign a treaty after it had been discussed and signed on our part. They have few ships or manufactures, and do not feed their colonies from us: of course there is little for the discrimination to operate upon. The operation on nations in treaty is equally a satire on the principle of discrimination. In Sweden, with whom we have a treaty, duties rise higher if borne in our bottoms, than in her own. France does the like, in respect to tobacco, two and a half livres the kentle, which in effect prohibits our vessels to freight tobacco. The mover has, somewhat unluckily, proposed to except from this sys-

tem nations having no navigation acts; in which case, France would become the subject of unfriendly discrimination, as the house have been informed since the debate began, that she has passed such acts.

I might remark on the disposition of England to settle a commercial treaty, and the known desire of the marquis of Lansdown, (then prime minister,) in 1783, to form such an one on the most liberal principles. The history of that business, and the causes which prevented its conclusion, ought to be made known to the public. The powers given to our ministers were revoked, and yet we hear, that no such disposition on the part of Great Britain has existed. The declaration of Mr. Pitt in parliament, in June, 1792, as well as the correspondence with Mr. Hammond, shows a desire to enter upon a negotiation. The statement of the report of the secretary of state, on the privileges and restrictions of our commerce, that Great Britain has shown no inclination to meddle with the subject, seems to be incorrect.

The expected operation of the resolutions on different nations, is obvious, and I need not examine their supposed tendency to dispose Great Britain to settle an equitable treaty with this country; but I ask, whether those who hold such language towards that nation as I have heard, can be supposed to desire a treaty and friendly connexion. It seems to be thought a merit to express hatred: it is common and natural to desire to annoy and to crush those whom we hate, but it is somewhat singular to pretend, that the design of our anger is to embrace them.

The tendency of angry measures to friendly dispositions and arrangements, is not obvious. We affect to believe, that we shall quarrel ourselves into their good will: that we shall beat a new path to peace and friendship with Great Britain—one that is grown up with thorns, and lined with men-traps and spring-guns. It should be called the war path.

To do justice to the subject, its promised advan-



tages should be examined. Exciting the competition of the French, is to prove an advantage to this country, by opening a new market with that nation. This is scarcely intelligible. If it means any thing, it is an admission, that their market is not a good one, or that they have not taken measures to favor our traffic with them. In either case, our system is absurd. The balance of trade is against us, and in favor of England. But the resolutions can only aggravate that evil, for, by compelling us to buy dearer and sell cheaper, the balance will be turned still more against our country. Neither is the supply from France less the aliment of luxury, than that from England. Their excess of credit is an evil, which we pretend to cure by checking the natural growth of our own capital, which is the undoubted tendency of restraining trade; the progress of the remedy is thus delayed. If we will trade, there must be capital. It is best to have it of our own; if we have it not, we must depend on credit. Wealth springs from the profits of employment, and the best writers on the subject establish it, that employment is in proportion to the capital that is to excite and reward it. To strike off credit, which is the substitute for capital, if it were possible to do it, would so far stop employment. Fortunately, it is not possible; the activity of individual industry eludes the misjudging power of governments. The resolutions would, in effect, increase the demand for credit, as our products selling for less in a new market, and our imports being bought dearer, there would be less money and more need of it. Necessity would produce credit. Where the laws are strict, it will soon find its proper level; the uses of credit will remain, and the evil will disappear.

But the whole theory of balances of trade, of helping it by restraint, and protecting it by systems of prohibition and restriction against foreign nations, as well as the remedy for credit, are among the exploded dogmas, which are equally refuted by the maxims of

science and the authority of time. Many such topics have been advanced, which were known to exist as prejudices, but were not expected as arguments. It seems to be believed, that the liberty of commerce is of some value. Although there are restrictions on one side, there will be some liberty left: counter restrictions, by diminishing that liberty, are in their nature aggravations and not remedies. We complain of the British restrictions as of a millstone: our own system will be another; so that our trade may hope to be situated between the upper and the nether millstone.

On the whole, the resolutions contain two great principles—to control trade by law, instead of leaving it to the better management of the merchants; and the principle of a sumptuary law. To play the tyrant in the counting-house, and in directing the private expenses of our citizens, are employments equally unworthy of discussion.

Besides the advantages of the system, we have been called to another view of it, which seems to have less connexion with the merits of the discussion. The acts of states, and the votes of public bodies, before the constitution was adopted, and the votes of the house since, have been stated as grounds for our assent to this measure at this time. To help our own trade, to repel any real or supposed attack upon it, cannot fail to prepossess the mind: accordingly, the first feelings of every man yield to this proposition. But the sober judgment, on the tendency and reasonableness of the intermeddling of government, often does, and probably ought still oftener to change our impressions. On a second view of the question, the man, who voted formerly for restrictions, may say, much has been done under the new constitution, and the good effects are yet making progress. The necessity of measures of counter restriction will appear to him much less urgent, and their efficacy, in the present turbulent state of Europe, infinitely less to be relied on. Far from being inconsistent in his conduct, consistent



cy will forbid his pressing the experiment of his principle under circumstances which baffle the hopes of its success. But if so much stress is laid on former opinions, in favor of this measure, how happens it that there is so little on that which now appears against it? Not one merchant has spoken in favor of it in this body; not one navigating or commercial state has patronized it.

It is necessary to consider the dependence of the British West India islands on our supplies. I admit, that they cannot draw them so well, and so cheap, from any other quarter; but this is not the point. Are they physically dependent? Can we starve them—and may we reasonably expect, thus to dictate to Great Britain a free admission of our vessels into her islands? A few details will prove the negative.—Beef and pork sent from the now United States to the British West Indies, 1773, fourteen thousand, nine hundred and ninety-three barrels. In the war time, 1780, ditto from England, seventeen thousand, seven hundred and ninety-five: at the end of the war, 1783, sixteen thousand, five hundred and twenty-six. Ireland exported, on an average of seven years prior to 1777, two hundred and fifty thousand barrels. Salted fish the English take in abundance, and prohibit its importation from us. Butter and cheese from England and Ireland are but lately banished even from our markets. Exports from the now United States, 1773; horses, two thousand, seven hundred and sixty-eight; cattle, one thousand, two hundred and three; sheep and hogs, five thousand, three hundred and twenty. Twenty-two years prior to 1791, were exported from England to all ports, twenty-nine thousand, one hundred and thirty-one horses. Ireland, on an average of seven years to 1777, exported four thousand and forty live stock, exclusive of hogs. The coast of Barbary, the Cape de Verds, &c. supply sheep and cattle. The islands, since the war, have increased their domestic supplies to a great degree.

The now United States exported about one hundred and thirty thousand barrels of flour, in 1773, to the West Indies. Ireland, by grazing less, could supply wheat; England herself usually exports it; she also imports from Archangel. Sicily and the Barbary states furnish wheat in abundance. We are deceived, when we fancy we can starve foreign countries. France is reckoned to consume grain at the rate of seven bushels to each soul. Twenty-six millions of souls, the quantity one hundred and eighty-two millions of bushels. We export, to speak in round numbers, five or six millions of bushels to all the different countries, which we supply; a trifle this to their wants. Frugality is a greater resource. Instead of seven bushels, perhaps two could be saved by stinting the consumption of the food of cattle, or by the use of other food. Two bushels saved to each soul is fifty-two millions of bushels, a quantity which the whole trading world, perhaps, could not furnish. Rice is said to be prohibited by Spain and Portugal to favor their own. Brazil could supply their rice instead of ours.

I must warn you of the danger of despising Canada and Nova Scotia too much as rivals in the West India supply of lumber, especially the former. The dependence, the English had placed on them some years ago, failed, partly because we entered into competition with them on very superior terms, and partly because they were then in an infant state. They are now supposed to have considerably more than doubled their numbers since the peace; and if, instead of having us for competitors for the supply as before, we should shut ourselves out by refusing our supplies, or being refused entry for them, those two colonies would rise from the ground; at least we should do more to bring it about than the English ministry have been able to do. In 1772, six hundred and seventy-nine vessels, the actual tonnage of which was one hundred and twenty-eight thousand, were employed in the West India trade from Great Britain. They were supposed,



on good ground, to be but half freighted to the islands; they might carry lumber, and the freight supposed to be deficient would be, at forty shillings sterling the ton, one hundred and twenty-eight thousand pounds sterling. This sum would diminish the extra charge of carrying lumber to the islands. But is lumber to be had?—Yes, in Germany, and from the Baltic. It is even cheaper in Europe than our own: besides which, the hard woods, used in mills, are abundant in the islands.

We are told they can sell their rum only to the United States. This concerns not their subsistence, but their profit. Examine it, however. In 1773, the now United States took near three million gallons of rum. The remaining British colonies, Newfoundland, and the African coast, have a considerable demand for this article. The demand of Ireland is very much on the increase. It was, in 1763, five hundred and thirty thousand gallons; 1770, one million, five hundred and fifty-eight thousand gallons; 1778, one million, seven hundred and twenty-nine thousand gallons.

Thus we see, a total stoppage of the West India trade would not starve the islanders. It would affect us deeply; we should lose the sale of our products, and, of course, not gain the carriage in our own vessels; the object of the contest would be no nearer our reach than before. Instead, however, of a total stoppage of the intercourse, it might happen, that each nation prohibiting the vessels of the other, some third nation would carry on the traffic in its own bottoms. While this measure would disarm our system, it would make it recoil upon ourselves. It would, in effect, operate chiefly to obstruct the sale of our products. If they should remain unsold, it would be so much dead loss; or if the effect should be to raise the price on the consumers, it would either lessen the consumption, or raise up rivals in the supply. The contest, as it respects the West India trade, is in every respect against

us. To embarrass the supply from the United States, supposing the worst as it regards the planters, can do no more than enhance the price of sugar, coffee and other products. The French islands are now in ruins, and the English planters have an increased price and double demand in consequence. While Great Britain confined the colony trade to herself, she gave to the colonists in return a monopoly in her consumption of West India articles. The extra expense, arising from the severest operation of our system, is already provided against, two fold; like other charges on the products of labor and capital, the burden will fall on the consumer. The luxurious and opulent consumer in Europe will not regard, and perhaps will not know, the increase of price nor the cause of it. The new settler, who clears his land and sells the lumber, will feel any convulsion in the market more sensibly, without being able to sustain it at all. It is a contest of wealth against want of self-denial, between luxury and daily subsistence, that we provoke with so much confidence of success. A man of experience in the West India trade will see this contrast more strongly than it is possible to represent it.

One of the excellences, for which the measure is recommended, is, that it will affect our imports. What is offered as an argument, is really an objection. Who will supply our wants? Our own manufactures are growing, and it is a subject of great satisfaction that they are. But it would be wrong to overrate their capacity to clothe us. The same number of inhabitants require more and more, because wealth increases. Add to this the rapid growth of our numbers, and perhaps it will be correct to estimate the progress of manufactures as only keeping pace with that of our increasing consumption and population. It follows, that we shall continue to demand, in future, to the amount of our present importation. It is not intended by the resolutions, that we shall import from England. Holland and the north of Europe do not furnish a suffi-



cient variety, or sufficient quantity for our consumption. It is in vain to look to Spain, Portugal, and the Italian States. We are expected to depend principally upon France: it is impossible to examine the ground of this dependence without adverting to the present situation of that country. It is a subject, upon which I practise no disguise; but I do not think it proper to introduce the politics of France into this discussion. If others can find in the scenes that pass there, or in the principles and agents that direct them, proper subjects for amiable names, and sources of joy and hope in the prospect, I have nothing to say to it: it is an amusement, which it is not my intention either to disturb or to partake of. I turn from these horrors to examine the condition of France in respect to manufacturing capital and industry. In this point of view, whatever political improvements may be hoped for, it cannot escape observation, that it presents only a wide field of waste and desolation. Capital, which used to be food for manufactures, is become their fuel. What once nourished industry, now lights the fires of civil war, and quickens the progress of destruction. France is like a ship, with a fine cargo, burning to the water's edge; she may be built upon anew, and freighted with another cargo, and it will be time enough, when that shall be, to depend on a part of it for our supply: at present, and for many years, she will not be so much a furnisher as a consumer. It is therefore obvious, that we shall import our supplies either directly or indirectly from Great Britain. Any obstruction to the importation will raise the price which we, who consume, must bear.

That part of the argument, which rests on the supposed distress of the British manufacturers, in consequence of the loss of our market, is in every view unfounded. They would not lose the market in fact, and if they did, we prodigiously exaggerate the importance of our consumption to the British workmen. Important it doubtless is, but a little attention will expose the

extreme folly of the opinion, that they would be brought to our feet by a trial of our self-denying spirit. England now supplants France in the important Levant trade, in the supply of manufactured goods to the East, and, in a great measure, to the West Indies, to Spain, Portugal, and their dependencies. Her trade with Russia has, of late, vastly increased; and she is treating for a trade with China: so that the new demands of English manufactures, consequent upon the depression of France as a rival, has amounted to much more than the whole American importation, which is not three millions.

The ill effect of a system of restriction and prohibition in the West Indies, has been noticed already. The privileges allowed to our exports to England may be withdrawn, and prohibitory or high duties imposed.

The system before us is a mischief, that goes to the root of our prosperity. The merchants will suffer by the schemes and projects of a new theory. Great numbers were ruined by the convulsions of 1775. They are an order of citizens deserving better of government, than to be involved in new confusions. It is wrong to make our trade wage war for our politics. It is now scarcely said, that it is a thing to be sought for, but a weapon to fight with. To gain our approbation to the system, we are told, it is to be gradually established. In that case, it will be unavailing. It should be begun with in all its strength, if we think of starving the islands. Drive them suddenly and by surprise to extremity, if you would dictate terms; but they will prepare against a long expected failure of our supplies.

Our nation will be tired of suffering loss and embarrassment for the French. The struggle, so painful to ourselves, so ineffectual against England, will be renounced, and we shall sit down with shame and loss, with disappointed passions and aggravated complaints. War, which would then suit our feelings, would not suit our weakness. We might, perhaps, find



some European power willing to make war on England, and we might be permitted by a strict alliance, to partake the misery and the dependence of being a subaltern in the quarrel. The happiness of this situation seems to be in view, when the system before us is avowed to be the instrument of avenging our political resentments. Those, who affect to dread foreign influence, will do well to avoid a partnership in European jealousies and rivalships. Courting the friendship of the one, and provoking the hatred of the other, is dangerous to our real independence; for it would compel America to throw herself into the arms of the one for protection against the other. Then foreign influence, pernicious as it is, would be sought for; and though it should be shunned, it could not be resisted. The connexions of trade form ties between individuals, and produce little control over government. They are the ties of peace, and are neither corrupt nor corrupting.

We have happily escaped from a state of the most imminent danger to our peace: a false step would lose all the security for its continuance, which we owe at this moment to the conduct of the president. What is to save us from war? Not our own power which inspires no terror; not the gentle and forbearing spirit of the powers of Europe at this crisis; not the weakness of England; not her affection for this country, if we believe the assurances of gentlemen on the other side. What is it then? It is the interest of Great Britain to have America for a customer, rather than an enemy: and it is precisely that interest, which gentlemen are so eager to take away, and to transfer to France. And what is stranger still, they say, they rely on that operation as a means of producing peace with the Indians and Algerines. The wounds, inflicted on Great Britain by our enmity, are expected to excite her to supplicate our friendship, and to appease us by soothing the animosity of our enemies. What is

to produce effects so mystical, so opposite to nature, so much exceeding the efficacy of their pretended causes? This wonder-working paper on the table is the weapon of terror and destruction: like the writing on Belshazzer's wall, it is to strike parliaments and nations with dismay: it is to be stronger than fleets against pirates, or than armies against Indians. After the examination it has undergone, credulity itself will laugh at these pretensions.

We pretend to expect, not by the force of our restrictions, but by the mere show of our spirit, to level all the fences, that have guarded for ages the monopoly of the colony trade. The repeal of the navigation act of England, which is cherished as the palladium of her safety, which time has rendered venerable, and prosperity endeared to her people, is to be extorted, from her fears of a weaker nation. It is not to be yielded freely, but violently torn from her; and yet the idea of a struggle to prevent indignity and loss, is considered as a chimera too ridiculous for sober refutation. She will not dare, say they, to resent it; and gentlemen have pledged themselves for the success of the attempt: what is treated as a phantom, is vouched by fact. Her navigation act is known to have caused an immediate contest with the Dutch, and four desperate seafighths ensued, in consequence, the very year of its passage.

How far it is an act of aggression, for a neutral nation to assist the supplies of one neighbor, and to annoy and distress another, at the crisis of a contest between the two, which strains their strength to the utmost, is a question, which we might not agree in deciding; but the tendency of such unseasonable partiality, to exasperate the spirit of hostility against the intruder, cannot be doubted. The language of the French government would not sooth this spirit. It proposes, on the sole condition of a political connexion, to extend to us a part of their West India commerce. The



coincidence of our measures with their invitation, however singular, needs no comment. Of all men, those are least consistent, who believe in the efficacy of the regulations, and yet affect to ridicule their hostile tendency. In the commercial conflict, say they, we shall surely prevail and effectually humble Great Britain.

In open war, we are the weaker, and shall be brought into danger, if not to ruin. It depends, therefore, according to their own reasoning, on Great Britain herself, whether she will persist in a struggle, which will disgrace and weaken her, or turn it into a war, which will throw the shame and ruin upon her antagonist. The topics, which furnish arguments to show the danger to our peace from the resolutions, are too fruitful to be exhausted. But without pursuing them further, the experience of mankind has shown, that commercial rivalships, which spring from mutual efforts for monopoly, have kindled more wars, and wasted the earth more, than the spirit of conquest.

I hope we shall show by our vote, that we deem it better policy to feed nations than to starve them, and that we shall never be so unwise, as to put our good customers into a situation to be forced to make every exertion to do without us. By cherishing the arts of peace, we shall acquire, and we are actually acquiring, the strength and resources for a war. Instead of seeking treaties, we ought to shun them; for the later they shall be formed, the better will be the terms: we shall have more to give, and more to withhold. We have not yet taken our proper rank, nor acquired that consideration, which will not be refused us, if we persist in prudent and pacific counsels; if we give time for our strength to mature itself. Though America is rising with a giant's strength, its bones are yet but cartilages. By delaying the beginning of a conflict, we insure the victory.

By voting out the resolutions, we shall show to our own citizens, and foreign nations, that our prudence has prevailed over our prejudices, that we prefer our interests to our resentments. Let us assert a genuine independence of spirit: we shall be false to our duty and feelings as Americans, if we basely descend to a servile dependence on France or Great Britain.



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## SPEECH OF JAMES MADISON,

ON

### THE BRITISH TREATY,

DELIVERED IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, APRIL 15, 1796.



On the 28th of October, 1794, a treaty between the United States and Great Britain was concluded, and was subsequently ratified by the President. On the 1st of March, 1796, the President promulgated the treaty by proclamation, declaring it obligatory, and on the same day communicated it to the house of representatives, in order that the necessary appropriations might be made to carry it into effect. In committee of the whole, on the following resolution: "*Resolved*, as the opinion of this committee, that it is expedient to pass the laws necessary for carrying into effect the treaty with Great Britain;" Mr. Madison spoke as follows:

MR. CHAIRMAN,

THE subject now under the consideration of the committee, is of such vast extent, of such vital importance to this country, and involves so many topics, which demand minute investigation, that I wish, at setting out, to be understood as not pretending to go through all the observations that may be applicable to its circumstances, but as endeavoring to present it in a mere general view, persuaded that the omissions I shall make, will be amply supplied by other gentlemen who are to follow me in the discussion.

The proposition, sir, immediately before the committee, amounts to this, that the treaty lately made with Great Britain ought to be directly carried into

effect by all such means and provisions, as are peculiarly within the province and the competency of the house of representatives to supply. This, sir, is the substance of the point immediately in question: but it will, in examining it, be proper to keep constantly in view another proposition which was made yesterday, by the gentleman from Pennsylvania,\* and referred to the committee, and which will be taken up of course, if the immediate question shall be decided in the negative.

Sir, if the proposition for carrying the treaty into effect be agreed to by the house, it must necessarily be upon some one or other of the three following considerations: that the legislature is bound by a constitutional necessity to pass the requisite laws, without examining the treaty or considering its merits—or, that on due examination, the treaty is deemed to be in itself a good one—or that, apart from these considerations, there shall appear extraneous reasons of sufficient weight to induce the house to carry the treaty into effect, even though it be in itself a bad treaty. The first of these considerations, however, is now completely excluded by the late decision of the house, that they have a right to judge of the expediency or in expediency of passing laws relative to treaties; the question then first to be examined by the committee, is that which relates to the merits of the present treaty. I will now, therefore, proceed to discuss those merits, and to present them to the committee under three different aspects. The first, as it relates to the execution of the treaty of peace, made in the year 1783. The second, as it bears upon and determines the several points in the law of nations connected with it. And the third, as it infringes upon, and may be supposed to affect the commercial intercourse of the two nations.

\* Mr. Maclay, who moved a resolution “that it is not expedient at this time to concur in passing the laws necessary for carrying the said treaty into effect.”



Sir, in animadverting upon the first of these, I will not take upon me the invidious office of inquiring, which party it is to whom the censure may justly be ascribed of having more than the other contributed to the delay of its execution, though I am far from entertaining any desire to shrink from the task, under an apprehension that the result might be disadvantageous to this country. The present treaty has itself, in express terms, waved this inquiry, and professes, that its purpose is to adjust all controversies on the subjects of which it is conversant, without regard to the mutual complaints or pretensions of the parties. Naturally, therefore, and most justly it was to be expected, that the arrangements for carrying that treaty into effect, would have been founded on the most exact, scrupulous and equitable reciprocity. But has this been the case, sir? I venture to say that it has not, and it grieves me to add, what nevertheless truth and justice compel me to declare, that, on the contrary, the arrangements were founded on the grossest violation of this principle. This, sir, is undoubtedly strong language, and as such I should be one of the last men living to give it utterance, if I were not supported in it by facts no less strong and unequivocal. There are two articles in the old treaty, for the execution of which, no provision whatsoever is made in the new one. The first is that which relates to the restitution of, or compensation for, the negroes and other property carried away by the British. The second, that which provides for the surrender to the United States of the posts, so long withheld by them, on our territory. The article that remains unexecuted on the part of the United States, is that which stipulates for the payment of all *bona fide* debts owing to British creditors; and the present treaty guarantees the carrying of this article into the most complete effect by the United States, together with all damages sustained by the delay, even to the most rigid extent of exaction, while it contains no stipulation whatever, on the part of Great Britain, for the faithful performance

of the articles left unexecuted by her. Look to the treaty, sir, and you will find nothing like it, nothing allusive to it. No, on the contrary, she is entirely and formally absolved from her obligation to fulfil that article, which relates to the negroes, and is discharged from making any compensation whatsoever for her having delayed to fulfil that, which provides for the surrender of the posts.

I am aware, sir, of its being urged in apology, or by way of extenuation for these very unequal stipulations, that the injury which may possibly be sustained by us in consequence of the detention of the posts by the British government, is not susceptible of an accurate valuation; that between such an injury and money there is no common measure, and that therefore, the wrong is incapable of liquidation, and affords no fair basis for a calculation of pecuniary damages. This apology, sir, may appear plausible, but it is by no means satisfactory. Commissioners might easily have been appointed, (as they are, vested too with full discretion, for other purposes,) to take charge of this subject, with instructions to do what they could, if unable to do what they ought, and if incapable of effecting positive justice, at least to mitigate the injustice of doing nothing.

For the very extraordinary abandonment of the compensation due for the negroes and other property carried off by the British, apologies have also been lamely attempted; and these apologies demand consideration. It is said to be at least doubtful whether this claim is authorized by the seventh article of the treaty of peace, and that Great Britain has uniformly denied the meaning put by the United States on that article. In reply to these assertions, it is sufficient for me to remark, that so far from its being true, that Great Britain has uniformly denied the American construction of this article, it is susceptible of positive proof, that till very lately, Great Britain has uniformly



admitted our construction of it, and that she has rejected the claim on no other ground than the alleged violation of the fourth article on the part of the United States. But on the supposition that it had been true, that Great Britain had uniformly asserted a different construction of the article, and refused to accede to ours, I beg leave to ask the house what ought to have been done? Ought we to have acceded at once to her construction? You will anticipate me, sir, in saying, assuredly not. Each party had an equal right to interpret the compact; and if they could not agree, they ought to have done in this, what they did in other cases, where they could not agree; that is, have referred the settlement of the meaning of the compact to arbitration: but, for us to give up the claim altogether because the other party to the compact thought proper to disallow our construction of it, was in effect to admit nothing less than that Great Britain had a better right than the United States to explain the point in controversy, or that the United States had done something which in justice called for a sacrifice of one of their essential rights.

From this view of the subject, sir, I consider it to be evident, that the arrangements in this treaty which relate to the treaty of peace of 1783, are in several instances deficient both in justice and reciprocity. And here a circumstance occurs, that in my opinion deserves the very particular attention of the committee. From the face of the treaty generally, and particularly from the order of the articles, it would seem that the compensation for the spoliations on our trade have been combined with the execution of the treaty of peace, and may therefore have been viewed as a substitute for the equivalent stipulated for the negroes. If this be really the meaning of the instrument, it cannot be the less obnoxious to reasonable and fair judges. No man can be more firmly convinced than I myself am, of the perfect jus-

tice on which the claims of the merchants on Great Britain are founded, nor can any one be more desirous to see them fully indemnified. But surely, sir, it will not be asserted that compensation to them is a just substitute for the compensation due to others. It is impossible that any claims can be better founded than those of the sufferers under the seventh article of the treaty of peace; because they are supported by positive and acknowledged stipulation, as well as by equity and right. Just and undeniable as the claims of the merchants may be, and certainly are, the United States cannot be obliged to take more care of them than of the claims equally just and unquestionable of other citizens; much less to sacrifice the latter to the former. To set this matter in a light, that will exhibit it in the clearest and most familiar way possible to the understanding and the bosom of every member in this house, I will invert the case. Let us suppose for a moment, that instead of relinquishing the claims for property wrongfully carried off at the close of the war, and obtaining stipulations in favor of the mercantile claims, the mercantile claims had been relinquished, and the other claims provided for—I ask, would not the complaints of the merchants have been as universal and as loud as they would have been just?

Sir, besides the omissions in favor of Great Britain, which I have already pointed out, as particularly connected with the execution of the treaty of peace, the committee will perceive, that there are conditions annexed to the partial execution of it in the surrender of the western posts, which increase the general inequality of this part of the treaty, and essentially affect the value of those objects. I beseech the committee to examine the point with the attention, a subject of so very important a character demands.

The value of the posts to the United States is to be estimated by the influence of those posts: first, on the trade with the Indians, and secondly, on the temper and conduct of the Indians to the United States.



Their influence on the Indian trade depends principally on the exclusive command they give to the several carrying places connected with the posts. These places are understood to be of such importance in this respect, that those, who possess them exclusively, will have a monopoly of that lucrative intercourse with a great part of the savage nations. Great Britain having exclusively possessed those places, has possessed all those advantages without a rival; and it was reasonably enough expected, that with the exclusive possession of the posts, the exclusive benefits of that trade and intercourse would be transferred also: but by the treaty now under consideration, the carrying places are to be enjoyed in common, and it will be determined by the respective advantages under which British and American traders will engage in the trade, which of them is to have the larger share in it. In this point of view, even if in no other, I view this regulation in the treaty as highly impolitic and injurious to the interests of this country. I need not dwell upon the signal advantages the British will have in their superior capital, which we shall have to encounter in all our commercial rivalships: but there is another consideration which ought to have, and no doubt will have great weight with the committee on this subject. The goods imported for the Indian trade through Canada, pay no duties—whilst those imported through the United States for that trade, will have paid duties from seven to ten *per centum*. At the same time, every man must see that a drawback is impracticable, or would be attended with an expense, which the business would not bear. Whatever the value or the importance, therefore, which the posts may be supposed to derive from those considerations, they are in a great measure stripped of them by the condition, annexed by this treaty to the surrender of the posts. Instead of securing, as it ought to have done, a monopoly in our favor, the carrying places are made common to both countries under circumstances, which will in all proba-

bility throw a monopoly into the hands of Great Britain. Nor is this a transient or a temporary evil, for that article of the treaty is to last forever. As to the influence of the posts on the conduct of the Indians, it is well known to depend chiefly upon their influence on the Indian trade. In proportion, therefore, as the condition annexed to the surrender of the posts affects the one, it must affect the other. So long and in such degree, as the British continue to enjoy the Indian trade, they will continue to influence the Indian conduct; and, though that should not be in the same degree as heretofore, it will be at least in a degree sufficiently great to pass sentence of condemnation on the article in question.

Another very extraordinary feature in this part of the treaty, sir, is the permission that it grants to aliens to hold lands in perpetuity. I will not inquire how far this may be authorized by constitutional principles, but I will always maintain that there cannot be found, in any treaty that ever was made, either where territory was ceded, or where it was acknowledged by one nation to another, one other such stipulation. Although I admit, that in such cases it has been common, and may be right, to make regulations for the conservation of the property of the inhabitants, yet I believe it will appear, that, in every case of the kind that has occurred, the owners of landed property, when they were so favored, were either called upon to swear allegiance to the new sovereign, or compelled to dispose of their landed property within a reasonable time.

Sir, the stipulation, by which all the ports of the United States are to open to Great Britain, as a valuable consideration for, or condition upon which those of one of her unimportant provinces are to be opened to us in return, is marked with such signal inequality, that it ought not only to be rejected, but marked with censure. Nor is the clause respecting the Mississippi less censurable. To me, indeed, it appears singularly reprehensible. Happy is it for the United States,



that the adjustment of our claims with Spain has been brought about, before any evil operation of the clause has been experienced. But of the tendency of the thing, I am persuaded, there can be no doubt. It is the more remarkable that this extension of the privileges of Great Britain on the Mississippi, beyond those contained in the treaty of peace, should have been admitted into the new treaty, because, by the latter itself, the supposition is suggested that Great Britain may be deprived, by her real boundary, of all pretensions to a share in the waters and the banks of the Mississippi.

And now, sir, to turn to the second aspect, in which I have undertaken to examine the question; namely, as it determines the several points in the law of nations connected with it. And here, I must say, that the same want of real reciprocity, and the same sacrifice of the interests of the United States, are conspicuous. Sir, it is well known that the principle that "FREE SHIPS MAKE FREE GOODS," has ever been a great and favorite object with the United States; they have established this principle in all their treaties; they have witnessed with anxiety the general effort and the successful advances towards incorporating this principle in the law of nations—a principle friendly to all neutral nations, and particularly interesting to the United States. I know, sir, that it has before now been conceded, on the part of the United States, that the law of nations stands as the present treaty regulates it; but it does not follow that more than acquiescence in this doctrine, is proper. There is an evident and a material distinction between silently acquiescing in it, and giving it the additional force and support of a formal and positive stipulation. The former is all that could have been required, and the latter is more than ought to have been unnecessarily yielded. The treaty is liable to similar objections in respect to the enumeration it contains of contraband articles, in which, sir, I am sorry to be obliged to remark, that the circumstances

and interests of the United States, have been made to give way to the particular views of the other party, while the examples held out in our other treaties have been disregarded. Hemp, tar, pitch, turpentine, &c., important staples of this country, have, without even a pretext of reciprocity, been subjected to confiscation. No nation, which produces these articles, has, I believe, any treaties at present, making the same sacrifice, with the exception of Denmark, who, in the year 1780, by what means I know not, was induced to agree to an explanation of the treaty of 1670, by which these articles are declared to be contraband. Now, sir, it appears to me, that this same supplementary and explanatory agreement between Great Britain and Denmark, has been the model selected for the contraband list of the treaty, at present in question; the enumeration in the latter being transcribed, word for word, from the former, with a single exception, which, not only is in itself, but renders the whole transaction extremely remarkable. The article "HORSES," which stands as one part of the original, is entirely omitted in the copy; and what renders the omission more worthy of scrutiny, is, that though the treaty, in general, seems to have availed itself, wherever it readily could, of the authority of Vattel, the omission of horses is no less a departure from him, than from the original, from which that part of the treaty was copied. Indeed, the whole of this particular transaction seems fraught with singularity and just liability to suspicion; for, strange as it may appear, it is certainly true, that the copy proceeded exactly from the original, till it got as far as the purposes of Great Britain required, and at that point stopped short. I entreat the committee to pay attention to this fact. After enumerating the articles that are to be deemed contraband, the Danish article goes on in the words following, viz. "But it is expressly declared, that among contraband merchandizes, shall not be comprehended, fish and meats, whether fresh or salted; wheat, flour, corn, or other grain;



beans, oil, wines, and generally whatever serves for the nourishment and support of life; all of which may at all times be sold and transported, like any other merchandizes, even to places held by an enemy of the two crowns, provided they be not besieged or blockaded."

This view of the subject naturally leads me to make some observations on that clause of the treaty which relates to provisions, and which, to say the least of it, wears a very ambiguous and disagreeable countenance; or, to speak more precisely, seems to carry with it a necessary implication that provisions, though not bound to besieged or blockaded places, may according to the law of nations, as it now exists, be regarded and treated as contraband. According to the genuine law of nations, no articles, which are not expressly and generally contraband, are so, in any particular instance, except in the single case of their going to a place besieged; yet it is recognized by this treaty, that there are other cases in which provisions may be deemed contraband, from which recognition, implication fairly results, that one of those cases may be that which has been assumed and put in force by Great Britain, in relation to the United States. Such trivial cases, as might be devised by way of appurtenances to the law, that condemns what is bound to blockaded places, can by no means satisfy the import of the stipulation; because such cases cannot be presumed to have been in contemplation of the parties. And if the particular case, of provisions bound to a country at war, although not to a besieged place, was not meant to be one of the cases of contraband according to the existing law of nations, how necessary was it to have said so; and how easy and natural would that course have been, with the Danish example on the subject before their eyes.

On the supposition that provisions, in our own vessels, bound to countries at war with Great Britain, can be now seized by her for her own use, on the condition stipulated, this feature of the treaty, sir, pre-

sents itself in a very serious light indeed ; especially if the doctrine be resorted to, that has been laid down by the executive in the letter of Mr. Jefferson, then secretary of state, to Mr. Pinckney, on the 7th of September, 1793. This letter is a comment on the British instructions of June the 8th, 1793, for seizing neutral provisions. After stating the measure as a flagrant breach of the law of nations, and as ruinous to our commerce and agriculture, it has the following paragraph. “ This act too, tends to draw us from that state of peace in which we are willing to remain. It is an essential character of neutrality to furnish no aids not stipulated by treaty”—that is, sir, by a treaty made prior to the war—“to one party, which we are not equally ready to furnish to the other. If we permit corn to be sent to Great Britain and her friends, we are equally bound to permit it to be sent to France. To restrain it would be a partiality that must lead to war ; and between restraining it ourselves, and permitting her enemies to restrain it unrightfully, there is no difference. She would consider it as a mere pretext, of which she certainly would not agree to be the dupe ; and on what honorable ground could we otherwise explain it ? Thus we should see ourselves plunged, by this unauthorized act of Great Britain into a war, with which we meddle not, and which we wish to avoid, if justice to all parties, and from all parties, will enable us to avoid it.” Sir, I entreat the committee to give this very interesting executive document all the attention which it demands, and which they have in their power to bestow.

I am now, sir, come to that article of the treaty by which the sequestration of British property is prohibited ; upon which I must say, that though I should, in all probability, be one of the last men existing, to have recourse to such an expedient for redress, I cannot approve of a perpetual and irrevocable abandonment of a defensive weapon, the existence of which may render the use of it unnecessary. Sir, there is an extra-



ordinary peculiarity in the situation of this country, as it stands in its relations to Great Britain. As we have no fleets or armies, to command a respect for our rights, we ought to keep in our own hands all such means as our situation gives us. This article, sir, is another instance of the very little regard that has been paid to reciprocity. It is well known, that British subjects now have, and are likely always to have in this country, a vast quantity of property of the kind made sacred. American citizens, it is known, have little, and are likely to have little of the kind in Great Britain. If a real reciprocity was intended, why are not other kinds of private property, such as vessels and their cargoes, equally protected against violation? These, even within the jurisdiction of Great Britain, are left open to seizure and sequestration, if Great Britain shall find it expedient; and why is not property on the high seas, under the protection of the law of nations, which is said to be a part of the law of the land, made secure by a like stipulation? This would have given a face of equality and reciprocity to the bargain. But nothing of the sort makes a part of it. Where Great Britain has a particular interest at stake, the treaty watchfully provides for it; when the United States have an equal interest at stake, and equally entitled to protection, it is abandoned to all the dangers which it has experienced.

Having taken this brief review of the positive evils in this part of the treaty, I might add the various omissions, which are chargeable upon it: but, as I shall not pretend to exhaust the subject, I will mention only one, and that is, the utterly neglecting to provide for the exhibition of sea papers; and, I cannot help regarding this omission as truly extraordinary, when I observe that in almost every modern treaty, and particularly in all our other treaties, an article on this subject has been regularly inserted. Indeed it has become almost an article of course in the treaties of the present century.

I shall now, sir, consider the aspect in which the commercial articles of this treaty present themselves for consideration. In the free intercourse stipulated between the United States and Great Britain, it cannot be pretended that any advantage is gained by the former. A treaty is surely not necessary to induce Great Britain to receive our raw materials and to sell us her manufactures. Let us, on the other hand, consider what is given up by the United States.

It is well known that when our government came into operation, the tonnage of America, employed in the British trade, bore a very inconsiderable proportion to the British tonnage. There being nothing on our side to counteract the influence of capital and other circumstances on the British side, that disproportion was the natural state of things. As some small balance to the British advantages, and particularly that of her capital, our laws have made several regulations in favor of our shipping, among which is the important encouragement resulting from the difference of ten *per centum* in the duties paid by American and foreign vessels. Under this encouragement, the American tonnage has increased in a very respectable degree of proportion to the British tonnage. Great Britain has never deemed it prudent to frustrate or diminish the effects of this, by attempting any countervailing measures for her shipping; being aware, no doubt, that we could easily preserve the difference by further measures on our side: but by this treaty, she has reserved to herself the right to take such countervailing measures against our existing regulations, and we have surrendered our right to pursue further defensive measures against the influence of her capital. It is justly to be apprehended, therefore, that under such a restoration of things to their former state, the American tonnage will relapse into its former disproportion to the British tonnage.

Sir, when I turn my attention to that branch of the subject which relates to the West Indies, I see still



greater cause for astonishment and dissatisfaction. As the treaty now stands, Great Britain is left as free, as she ever has been, to continue to herself and her shipping, the entire monopoly of the intercourse. Recollecting, as I do, and as every member of the committee must do, the whole history of this subject, from the peace of 1783, through every subsequent stage of our independence, down to the mission of the late envoy, I find it impossible, adequately to express my astonishment, that any treaty of commerce should ever have been acceded to, that so entirely abandoned the very object for which alone such a treaty could have been contemplated; I never could have believed that the time was so near, when all the principles, claims and calculations, which have heretofore prevailed among all classes of people, in every part of the union, on this interesting point, were to be so completely renounced. A treaty of commerce with Great Britain, excluding a reciprocity for our vessels in the West India trade, is a phenomenon which fills me with more surprise than I know how to express.

I may be told, perhaps, that in the first place, Great Britain grants to no other nation the privilege granted to the United States of trading at all with her West Indies, and that, in the second place, this is an important relaxation of the colonial system established among the nations of Europe. To the first of these observations, I reply, that no other nation bears the same relation to the West Indies as the United States; that the supplies of the United States are essential to those islands; and that the trade with them has been permitted purely on that account, and not as a beneficial privilege to the United States.

To the second, I reply, that it is not true, that the colony system requires an exclusion of foreign vessels from the carrying trade between the colonies and foreign countries. On the contrary, the principle and practice of the colony system are, to prohibit, as much as may be convenient, all trade between the colonies

and foreign countries; but when such a trade is permitted at all, as necessary for the colonies, then to allow the vessels of such foreign countries a reciprocal right of being employed in the trade. Great Britain has accordingly restrained the trade of her islands with this country, as far as her interest in them will permit. But, has she allowed our vessels the reciprocal right to carry on the trade so far as it is not restrained? —No such thing. Here she enforces a monopoly in her own favor, contrary to justice, and contrary to the colonial system of every European nation that possesses any colonies; none of whom, without a single exception, ever open a trade between their colonies and other countries, without opening it equally to vessels on both sides. This is evidently nothing more than strict justice. A colony is a part of an empire. If a nation choose, she may prohibit all trade between a colony and a foreign country, as she may between any other part of her dominions and a foreign country; but if she permit such a trade at all, it must be free to vessels on both sides, as well in the case of colonies as of any other part of her dominions. Great Britain has the same right to prohibit foreign trade between London and the United States, as between Jamaica and the United States; but if no such prohibition be made with respect to either, she is equally bound to allow foreign vessels a common right with her own in both. If Great Britain were to say, that no trade whatever should be carried on between London and the United States, she would exercise a right of which we could not reasonably complain. If she were to say, that no American vessels should be employed in the trade, it would produce just complaints, and justify a reciprocal regulation as to her vessels. The case of the trade from a port in the West Indies is precisely similar.

In order that the omission of the treaty to provide a reciprocity for our vessels in the West India trade, may be placed in its true light, it will be proper to attend to another part of the treaty, which ties up the



hands of this country against every effort for making it the interest of Great Britain to yield to our reasonable claims. For this end I beg leave to point out to the committee the clause, which restrains the United States from imposing prohibitions or duties on Great Britain, in any case, which shall not extend to all other nations, and to observe, that the clause makes it impossible to operate on the unreasonable policy of that nation, without suspending our commerce at the same time with all other nations, whose regulations, with respect to us, may be ever so favorable and satisfactory.

The fifteenth article, Mr. Chairman, has another extraordinary feature, which I should imagine must strike every observer. In other treaties, which profess to put the parties on the footing of the most favored nation, it is stipulated that where new favors are granted to a particular nation in return for favors received, the party claiming the new favor shall pay the price of it. This is just and proper where the footing of the most favored nation is established at all. But this article gives to Great Britain the full benefit of all privileges that may be granted to any other nation, without requiring from her the same or equivalent privileges, with those granted by such nation. Hence it will happen, that if Spain, Portugal or France shall open their colonial ports to the United States, in consideration of certain privileges in our trade, the same privileges will result gratis and *ipso facto* to Great Britain. This stipulation, sir, I consider as peculiarly impolitic, and such an one as cannot fail to form, in the view of the committee, a very solid and weighty objection to the treaty.

I dare say, sir, that by the advocates of the treaty great stress will be laid on the article relating to the East Indies. To those who are better acquainted with the subject than I can pretend to be, I shall resign the task of examining and explaining that part of the subject. With two observations, however, I must trouble the committee, before I drop the subject of this

article; one is, that some gentlemen, as judicious and well informed, as any, who can be consulted, declare that they consider this article as affording not a shadow of advantage to the United States. The other is, that no privilege is stipulated in it, which has not heretofore been uniformly granted without stipulation; and as the grant can have proceeded from no motive but a pure regard to the British interest in that country, there was every reasonable security that the trade would continue open as it had been, under the same consideration.

Such, Mr. Chairman, being the character of this treaty, with respect to the execution of the treaty of peace, the great principles of the law of nations, and the regulations of commerce, it never can be viewed as having any claim to be carried into effect on its own account. Is there then any consideration, extraneous to the treaty, that can furnish the requisite motives? On this part of the subject the house is wholly without information. For myself, I am ready to declare, that I have neither seen, nor known, nor heard, of any circumstances in the general posture of affairs, or in the particular relations of this country to them, that can account for the unequal and injurious arrangements, which we are now called upon for laws to execute. But there is something further to be taken into account. The continuance of the spoliations on our trade, and the impressment of our seamen, whether to be understood as practical comments on the treaty, or as infractions of it, cannot but enforce on the minds of the committee the most serious reflections. And here, sir, I beg leave to refer once more to the passage I have already read, extracted from the letter of Mr. Jefferson to Mr. Pinckney, and to ask if, as there stated by the executive, our neutrality and peace are to be exposed, by permitting practices of that kind, what must be thought of our giving effect, in the midst of such practices, to a treaty from which a countenance may be derived by that nation for going on further with them?



I am aware that the executive, notwithstanding the doctrine and policy laid down as above, has finally concurred in the treaty under all these circumstances. But I do not consider that as invalidating the reasoning drawn from the present state of things. I may be treading on delicate ground, but I cannot think it improper to remark, because it is a known fact, that the executive paused for some weeks after the concurrence of the senate, before he ratified the treaty with his signature; and I think it may fairly be presumed, that the true grounds of that pause were the renewal of spoliation, and a recollection of the light in which they had been represented; that, on that supposition, he was probably influenced in signing the treaty when he did, by an expectation that such a mark of confidence in the British government would produce an abolition of the unlawful proceeding, and consequently, if it were foreseen that the spoliations would have been continued, as we find them to be, the treaty would not have been then signed, or if it had not been then signed, it would not be signed under the circumstances of the moment, when it falls under our consideration.

I shall conclude, Mr. Chairman, with taking notice of two considerations, which have been made great use of by way of inducing Congress to carry the treaty into effect. In the first place, it has been said, that the greater part of the treaty is to continue in force for no longer time than two years after the termination of the present war in Europe; and that no very great evils can grow out of it in that short period. To this I reply, that ten of the articles, containing very objectionable stipulations, are perpetual; and that, in the next place, it will be in the power of Great Britain, at the expiration of the other articles, to produce the same causes for the renewal of them, as are now urged in their support. If we are now to enforce the treaty, lest Great Britain should stir up the Indians, and refuse to pay our merchants for the property of which she has plundered them, can she not, at the end of two

or three years, plunder them again, to the same or a greater amount? Cannot the same apprehensions be revived with respect to the Indians, and will not the arguments then be as strong as they are now, for renewing the same treaty, or for making any other equal sacrifices that her purposes may dictate?

It has been asked—what will be the consequences of refusing to carry the treaty into effect? I answer, that the only supposable consequence is, that the executive, if governed by the prudence and patriotism, which I do not doubt will govern that department, will of course pursue the measures most likely to obtain a reconsideration and remodification of the offensive parts of the treaty. The idea of war as a consequence of refusing to give effect to the treaty, is too visionary and incredible to be admitted into the question. No man will say that the United States, if they be really an independent people, have not a right to judge of their own interests, and to decline any treaty that does not duly provide for them. A refusal, therefore, in such cases, can afford no cause, nor pretext, nor provocation for war, or for any just resentment. But, apart from this, is it conceivable that Great Britain, with all the dangers and embarrassments that are thickening on her, will wantonly make war on a country, which is the best market she has in the world for her manufactures, which pays her an annual balance, in specie, of ten or twelve millions of dollars, and whose supplies, moreover, are essential to an important part of her dominions? Such a degree of infatuation ought not to be ascribed to any country. And, at the present crisis, for reasons well known, an unprovoked war from Great Britain, on this country, would argue a degree of madness, greater than any other circumstances that can well be imagined.

With all the objections, therefore, to the treaty, which I have stated, I hope it will not now be carried into effect, and that an opportunity will take place for reconsidering the subject, on principles more just and favorable to the United States.



*Wm. B. Giles, of Virginia, was in Congress from 1796 to 1800 - acted as a powerful man on the Democratic side. From N. York. Dec. 1830.*

## SPEECH OF WILLIAM B. GILES.

ON

### THE BRITISH TREATY,

DELIVERED IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, APRIL 18, 1796.



In committee of the whole on the following Resolution, *Resolved*, as the opinion of this committee, that it is expedient to pass the laws necessary for carrying into effect the treaty with Great Britain: Mr. Giles spoke as follows:—

MR. CHAIRMAN,

IT is much to be regretted that all the information which could throw light upon the subject of discussion, should not be before the committee. A sense of responsibility arising from the peculiarly delicate nature of the question, has induced the House to take every step with more than a common degree of caution. Before we proceeded to deliberate upon the expediency or in expediency of providing for carrying the treaty into effect, we made a request to the President for the papers which attended the negotiation. This request has been refused; not because the call itself contained any thing unconstitutional; not because the contents of the papers called for are of such a nature as to render the disclosure thereof at this time improper—neither of these causes being intimated in the message—but because, principles were advocated by individual gentlemen in the course of

the argument inducing the call, which the President thought not warranted by the constitution. I do not propose to animadvert upon the conduct of the Executive, in departing from the resolution itself, and in noticing the arguments of individual members; nor upon any other part of the proceedings of the Executive relative to the call of the House and his refusal. I only mean to remark, that being perfectly convinced of the propriety of the call itself, of the utility of the information embraced by it; and not being satisfied, by the arguments of the President, of the propriety of withholding the papers called for, I should myself have been willing to have suspended all further proceedings respecting the provision for the treaty, until the papers should be laid before the House. I would have firmly placed myself on that ground; and in that position hazarded my responsibility. The extreme sensibility excited on the public mind by the agitation of the treaty question, I had supposed, would have furnished an irresistible argument in favor of complying with the request of the House; provided no inconvenience would have attended the disclosure; and in my opinion, under all the circumstances of the case, the House would have been completely justified in suspending all further proceedings upon the question of providing for the treaty, until they received that information which they deemed necessary, to guide their deliberations. But as the House has thought proper to take a different course, and has proceeded to the consideration of the question, with such lights as they possess, I will explain the motives which will probably finally influence my vote.

I shall discuss the subject in two points of view. I will first examine the contents of the treaty itself, and then the probable consequences of refusing, or of giving it efficacy.

In examining the contents of the instrument itself, I propose to go through it, article by article, unless the task prescribed to myself should exceed the bounds



usually allowed to members for the delivery of their sentiments. I shall do this, because I wish to treat the subject with the utmost candor, and to avoid any possible imputation of intending to exhibit the bad, and avoid the good parts of the treaty, if any such there are. I mean, however, to state merely the purport of many of the articles, without any animadversion, and to dwell only upon such as appear to me to be the most material.

The first object of the negotiation respects the in-execution of the treaty of peace.

The preamble professes to wave the respective complaints and pretensions of the parties, as to the in-execution of the former treaty, and of course establishes a principle, as the basis of the present treaty, that either both parties were equally culpable or equally blameless, in respect to the in-execution of the treaty of peace. I do not mean to remark upon the propriety or impropriety of this admission on the part of the United States. I will observe, however, and I think with great force, that the stipulations in the present treaty do not correspond with the principle professed as its basis.

On the part of Great Britain, two articles have been unexecuted—the restoration of certain property in possession of the British at the close of the war, and the surrender of the Western posts. On the part of the United States, one article is said to remain unfulfilled; it respects the promise, that no legal impediments should be thrown in the way of the recovery of debts due to British subjects.

The claim of compensation for the property carried away in contravention of the treaty of peace, is wholly abandoned, and the value of the surrender of the posts very much lessened, by the annexation of conditions which made no part of the stipulations of surrender in the treaty of peace. The United States are more than bound to fulfil the article heretofore unfulfilled by them; for, instead of continuing the courts open for the recovery of debts in the usual way, as was the

promise in the treaty of peace, they are made to assume the payment of all debts, interests and damages in cases of insolvencies, and a mode of adjustment is proposed for ascertaining the amount, which furnishes the greatest latitude for frauds against the United States which could be devised. This will appear in the further examination of the subject. Hence it is obvious, that the stipulations of the treaty abandon the very principle of adjustment assumed by a gentleman from Connecticut, (Mr. Swift,) in replying to a remark to this effect, made by a gentleman from Virginia: he observed, that he believed if an inquiry were to be made into the first breach of the treaty of peace, it would not issue favorably to the United States; and he proceeded to argue upon the presumption, that the first breach was properly imputable to the United States. I think it requires very strong assurances to justify an imputation of this sort against the United States, such as I believe the present occasion does not afford. In the first place, the treaty itself disavows the imputation; all claims and pretensions arising from the first breach are disclaimed; of course it is unnecessary, if not improper, to defend the treaty on a ground disclaimed by itself.

But upon what ground does the gentleman place his admission of the first breach of the treaty of peace upon the United States? The gentleman denies the uniform construction, put upon the article for the restoration of certain property which was carried away from the United States at the close of the war, and asserts, that the article never was intended to bear that construction. If the gentleman can establish his assertion, and extend it to the other article, unfulfilled by Great Britain, he may probably establish his position.

I will first premise, that if the article does not intend the restoration of property mentioned in it, the insertion of it in the treaty is not only unnecessary,



but mischievous; as it will necessarily produce embarrassment to the parties to the instrument.

The British army, at the termination of the war, was at New-York; the negroes, which constitute the species of property in question, are in the southern states, so that if the article does not include that species of property taken in the course of the war, and in the possession of the British at the close of it, it is worse than nonsense. It never could have been supposed, that upon the first dawn of peace, the British would have left New York and invaded the southern country, for the purpose of plundering the inhabitants of their negroes. The peace article itself was a sufficient security against this conduct, and of course no specific provision could have been necessary for that purpose. This is not only the uniform construction of the article by the United States, but, as I always have understood and believed, Great Britain has acquiesced in the construction, until the negociation of the present treaty. As an evidence of these facts, I will observe, that American commissioners were permitted to make a list of the negroes in the possession of the British at the close of the war, by the British commander; that the list was entered upon the files of Congress; that there are resolutions of Congress claiming compensation for the property carried away in contravention of that article in the treaty of peace, perhaps without even the intimation of a doubt as to the construction: that during the administration of lord Carmarthen, I have always understood, that the claim of compensation for property carried away, was admitted, whenever British subjects were indemnified for the debts due to them from citizens of the United States. But here I have to regret the want of the papers called for by this House, as they contain all the evidence upon which this important fact depends. Hence it appears that Great Britain herself yielded her assent to this construction, and ought not to

have been permitted to withdraw it afterwards. These circumstances seem to me to be conclusive, and ingenuity itself would pause for arguments against facts so stubborn and irresistible.

The gentleman from Connecticut, has said, that he thinks the present treaty as good an one, as the United States had any right to expect. If the United States were as flagitious with respect to the inexecution of the treaty of peace, as the gentleman supposes, and Great Britain as blameless, I would acknowledge that the mode of adjustment has inflicted upon them a just punishment for their criminal conduct. This, however, is but a negative compliment to the treaty, and can be gratifying only to those who concur with the gentleman in the imputation thrown upon the United States. But it can afford no consolation to those, who contend, that Great Britain has been at least as culpable as the United States, and particularly when they reflect that the present treaty itself professes to disavow the imputation.

But even if the imputation is conceded, it would have been but reasonable, to have confined the punishment to the new adjustment of the articles unfulfilled, without extending it to a train of humiliating and imperious commercial concessions, which are altogether unconnected with the subject, and not warranted by necessity.

The first article of the treaty, is declaratory of peace, &c. between the two countries, which is a very desirable thing, provided it can be established upon principles compatible with the national honor and the national interests. The second and third articles contain the stipulations for the surrender of the western posts, and the conditions accompanying the surrender.

The surrender of the western posts, would be an extremely desirable object, if conformably with the treaty of peace, it were unattended with any conditions.

I am desirous of giving credit to every part of the instrument which will admit of it, and am not dispos-



ed to exaggerate its imperfections. I am willing to admit, that the surrender of the posts, even with the conditions annexed, is of some importance; but I will assert, that the surrender loses a great portion of its value to the United States, in consequence of the conditions attached to it. Two objects of primary importance were to be effected by the unqualified surrender of the posts. The one was to obtain the influence over the Indians in their neighborhood, which the British now possess. The other, the participation, at least, in the fur trade carried on with those Indians. The conditions accompanying the surrender, will, in my opinion, very much impede the one, and completely defeat the other object.

The stipulation in the second article, which authorizes British subjects, now living within the precincts or jurisdiction of the posts, still to continue to reside there, with the free use of their property, and to elect either to remain British subjects, or become American citizens at pleasure, will, in my opinion, very much impede, if not wholly obstruct, the salutary influence of the United States, over the numerous tribes of Indians in that quarter; which is one great object hoped for from the possession of those posts. The effects of this stipulation will appear more obvious, when it is compared with the stipulations in the next article, by which the trade with the Indians is regulated. The second object, to wit, the participation in the fur trade, I believe will be completely defeated by the regulation of that trade in the third article. That article stipulates an equality of duties between American citizens and British subjects, a free communication through that country, upon an equality of portages and ferriages. These conditions, in my opinion, will secure a complete monopoly of the fur trade to Great Britain; because the superiority of the British capital employed in that trade, and the inferiority of duties, paid upon goods imported for that trade into Canada, will, in my judgment, wholly exclude American citizens from a

participation in that trade through any channel in the United States. The United States have no mode left to counteract this monopoly, but by a system of drawbacks, which appear to me, from the nature of the trade and country, to be almost impracticable; or if not absolutely impracticable, it will compel us to purchase the trade at a price greater than it is worth. It appears to me, that Great Britain foresaw these consequences, and that these articles are as well calculated to produce them, and to obstruct the views of the United States, as sagacity itself could have devised. Hence it appears to me, that the value of an unqualified surrender of the posts, is very much lessened by the accompanying conditions. The gentleman from Connecticut, observed, that the surrender of the posts was absolute, and that no conditions were annexed to it. It is a sufficient answer to say, that his observation is a mere criticism upon terms. If they be not conditions of the surrender, they are accompanying engagements, and are to be executed, with good faith, by the United States.

The fourth and fifth articles relate merely to the ascertainment of the boundary line, and therefore I shall pass over them without comment.

The sixth article is, in my judgment, highly objectionable. This article assumes the payment of all debts, interests and damages, due from American citizens to British subjects, previous to the revolution, in all cases where insolvencies have ensued, and where legal impediments to the recovery of the debts have existed. I will remark, that this is an assumption of debt by the public, which they do not owe, and never promised to pay, and that it is bettering the condition of the British creditor under the treaty of peace, without any obligation on the United States to do so. As amongst the fashionable calumnies of the day, this article has been a fertile source of misrepresentation against the state I have the honor to represent, I am anxious to place this subject in its true light;



and as I profess to be well acquainted with it, I hope to be indulged with some *minutiae* of explanation. This subject presents two aspects to the public; the one, as it respects states, the other, as it respects the individuals of the United States. As to the first, I admit, that if a greater proportion of debts of this description are due from Virginia than from other states, (which has not, however, been ascertained, and which, I doubt,) in the same proportion as a state, Virginia would receive an advantage over the rest of the states, by a common assumption of the debts; but as it respects the individuals of that state, who are not debtors, they stand precisely upon the same footing with individuals in the other states, because they are, in common with others, to contribute to the payment of debts which they never owed. It is of very little consolation to them, that they live in the neighborhood of those, whose debts they are to contribute to pay; for propinquity or distance can make no difference in the state of interest between the individuals, who do not owe, but who are to contribute to pay. As a very small proportion of the inhabitants of Virginia come under this description of debtors, the phenomenon of an opposition of that state to this particular article, is thus explained.

It is to be remarked, that this article contains no limits as to the amount of debts assumed by it, nor are there any precise *data* furnished for calculation. But it has been said, that if the debts be due, they ought to be paid, be the amount what it may. Gentlemen should reflect, that the amount will depend very much upon the mode of adjustment, and that the mode adopted by the treaty, is the most objectionable that can be devised.

The principle established for the adjustment of the debts, instead of preserving the conflicting interests of debtor and creditor, will produce a complete union of interests; and of course, will furnish the greatest temptations to frauds against the United States from

both debtor and creditor. Hence the amount of debts assumed by the United States, will probably be greatly increased beyond what would be the amount, if the debtor and creditor were left to the ordinary course of judicial proceedings to adjust their own differences under the principle of opposing interests. To entitle the creditor to a claim upon the United States, it is necessary for him first to establish his demand against his debtor, and then to show that his debtor was solvent at the commencement of the late war, has since become insolvent, and that some legal impediment has intervened to prevent the recovery of the debt. Hence it becomes the interest of both debtor and creditor, to establish these facts ; because the debtor will be relieved from his debt, by the assumption of the United States, and the claim of the creditor will be transferred from the individual to the United States, which he will in all cases prefer, particularly as the assistance of the debtor will often become necessary to facilitate the establishment of the debt. This is the natural operation of the union of interest, produced by the assumption of the debts by the United States, and there is more danger to be apprehended from it, from the impossibility of checking it by any vigilance on the part of the United States, and from the peculiar circumstances attending these debts.

The greatest proportion of debts remaining unpaid, I believe, stand upon open accounts. In many cases, when the debts were evidenced by specialties, payments have been obtained, either by the usual course of judicial process, or by compromise between the parties. There are two circumstances, attending the open accounts, which will give great scope to fraudulent combinations between the debtor and creditor. The one respects the evidence, the other the substantial causes of difference in the accounts of the creditor and debtor. In the reign of George the II., an act was passed for the more easy recovery of debts due to his majesty's subjects, from his majesty's plantations



in America. This act authorized the merchant, residing in Great Britain, to establish his debt against a colonist, by affidavits, taken before the commencement of the suit, and authenticated in the usual mode. This deprived the defendant of all opportunity of cross examination, so essential to the discovery of truth, and the jury of all knowledge of the character and credibility of the deponent.

In Virginia, the affidavits, taken in pursuance of this act, have been deemed incompetent to the establishment of the debt, because the act itself destroys the very nature and properties of evidence. Hence, in all disputed claims, founded upon this act, judgments have been rendered for the defendants. If this should be deemed a legal impediment to the recovery, this whole description of debts will probably come under the description of debts assumed. The words used in the treaty were calculated, in my opinion, with a view to this construction, and must have been dictated by persons, better informed of the nature of this business than I presume the envoy extraordinary of the United States could have been. The words alluded to are the following: "The said commissioners, in examining the complaints and applications so preferred to them, are empowered and required, in pursuance of the true intent and meaning of this article, to take into their consideration all claims, whether of principal or interest, or balance of principal and interest, and to determine the same respectively, according to the merits of the several cases, due regard being had to all the circumstances thereof, and as equity and justice shall appear to them to require. And the said commissioners shall have power to examine all such persons, as shall come before them, on oath or affirmation, touching the premises; and also to receive in evidence, according as they may think most consistent with equity and justice, all written depositions, or books, or papers, or copies, or extracts thereof, every such deposition, book, or paper, or copy, or extract,

being duly authenticated, either according to the legal forms now respectively existing in the two countries, or in such other manner as the said commissioners shall see cause to require or allow."

The other circumstances arise from the nature of the remittances. These are generally made in tobacco. The sales of this article are entrusted solely to the merchant, residing in Great Britain; and the American shipper has no check whatever upon the merchant, making the sale. Upon rendering these accounts, the tobacco is often set down at a price very inferior to the average price of that article in Europe, at the time of making the sale. A great number of controversies have taken place upon this ground, which remain unsettled; but, if the United States shall assume the debts of the individuals thus circumstanced, they will have no inducement to contest these accounts in a course of judicial proceedings, and the promise of exoneration from the creditor, will often induce the debtor to facilitate the establishment of the claims against the United States. I have not overlooked the clause in this article of the treaty, which compels an assignment of the claim from the creditor to the United States; but that will have little or no operation to check the practice invited by this article, because, the debtor is presumed to be insolvent before the assignment is to be made, and I believe the United States will be but unsuccessful collectors from insolvent debtors.

From these circumstances I conclude, that this assumption of debt, without any obligation for so doing, is extremely improper, particularly when it is recollected, that this article sweeps away all acts of limitation, and relates to the whole extensive scene of business, carried on in the United States, from the extremes of New Hampshire to the extremes of Georgia, for an unlimited time before the revolution. If I were to make a conjecture as to the amount, it would be a loose one, but if I were to choose between indemnifica-



tion to the American merchants for recent spoliations, committed upon their commerce, or the payment of these debts, I should not hesitate to prefer the first alternative; because, to that there are known limits; to the other, there are not, nor any *data* for calculation under the mode of adjustment prescribed by the treaty. I therefore caution gentlemen against the assumption of this unascertained debt; for I believe it will be attended with a responsibility, which they cannot answer to their constituents, nor will the responsibility be alleviated by the recollection of the merits of the individuals for whose benefit it is made. The increase of the debt of the United States, by these artificial means, without any obligation to do so, I think highly objectionable.

The seventh article of the treaty promises compensation for the spoliations, committed upon American commerce, in the course of the present war. This would be a very desirable object, if it could be obtained; but, when I observe, that before compensation is to be obtained, a process is to be had in the admiralty courts of Great Britain, and that the amount will depend very much upon the temper of those courts, I doubt whether this boasted article will not dwindle down into very little importance. I shall only observe further, that the merchants, for whose benefit this article was more immediately intended, and who have petitioned Congress to make provision for carrying the treaty into effect, seem not to rely implicitly upon the provision upon this subject; because, in every memorial, they have held up the expectation of ultimate indemnification from the United States.

The eighth article points out the mode of paying the commissioners, to be appointed under the treaty—to which I have no objection.

The phraseology of the ninth article is somewhat curious, and the object I cannot perfectly understand. It is in the following words:

“It is agreed, that British subjects, who now hold

lands in the territories of the United States, and American citizens, who now hold lands in the dominions of his majesty, shall continue to hold them according to the nature and tenure of their respective estates and titles therein; and may grant, sell, or devise the same to whom they please, in like manner as if they were natives; and that neither they nor their heirs or assigns shall, so far as may respect the said lands and the legal remedies incident thereto, be regarded as aliens."

If it be the object of this article to vary the existing laws upon the subject of landed estates, it is wholly improper. If not, it is wholly unnecessary. I do not know how far this article may affect the proprietary estates. If it be intended to give any new impulse to those estates, it may be attended with serious effects. Pennsylvania is the only state which has regularly extinguished the proprietary claim. If a latitude of construction should be given to this article, it might materially affect the states of Delaware, North Carolina and Virginia. I will not pretend to say, that it will bear the interpretation I have hinted at, but, as an individual, I would rather it had been omitted. There is a semblance of reciprocity assumed by this article; but no reciprocity in fact.

The tenth article is of a very extraordinary complexion. It is remarkable, both as to the matter it contains, and the manner in which it is expressed. It is in the following words:

"Neither the debts, due from individuals of the one nation to individuals of the other, nor shares, nor monies, which they may have in the public funds, or in the public or private banks, shall ever, in any event of war or national differences, be sequestered or confiscated, it being unjust and impolitic, that debts and engagements, contracted and made by individuals having confidence in each other, and in their respective governments, should ever be destroyed or impaired by national authority, on account of national differences and discontents."



This article also assumes the semblance of reciprocity; but no reciprocity in fact.

British subjects have great sums, both in public and private funds, in the United States; American citizens have little or no property in public or private funds in Great Britain. Hence the evident and substantial inequality of this reciprocal stipulation. On the other hand, American citizens have a great share of property on the water, with very little naval protection, and of course subject to the naval superiority of Great Britain.

If, therefore, Great Britain had stipulated, in case of war, that in consideration of a refusal, on the part of the United States, to sequester property of British subjects upon land, she would not molest the property of American citizens upon water, there would then have been a substantial, instead of a nominal reciprocity: as the article now stands, there is an important right conceded, and no compensation obtained.

This article, however, has been highly applauded, by a particular description of persons interested in it, in consequence of the affectation of morality professed by it.

It has been said to be dishonest and immoral, to take the property of individuals for the purpose of compensating national wrongs. I can see no difference between the morality of taking the property of individuals upon water, and the property of individuals upon land. The difference of the element can make no difference in the morality of the act. However strongly, therefore, this moral impulse was operating upon the American envoy, whilst engaged in the construction of this article, it had entirely dissipated before he arrived at the twenty-fifth article: for, in that article, the principle of privateering is not only admitted, but its operation facilitated; so that, unless the interest of Great Britain is to be the criterion of the envoy's morality, what he has gained by the morality of the tenth ar-

ticle, must be at least balanced by the immorality of the twenty-fifth. Sequestration is always admitted as part of the law of nations, and hence I presume it is not immoral, under certain circumstances. It appears to be the opinion of some, that where the property of an individual has been sequestered on account of the act of his nation, the individual is to sustain the loss; but this is not the case. The sequestration itself imposes upon the government, to which the individual belongs, an obligation of reimbursement. Hence the sequestration does not ultimately rest upon the individual, but upon the government for whose wrong the property was taken. This is also conformable to the laws of nations. It is the course pursued by Great Britain for all sequestrations made during the American war, and is the course which will be pursued by all nations.

War itself is immoral in most cases; and justifiable, in my opinion, only in the case of self-defence; but, if a stipulation had been inserted in this treaty which prohibited the United States from declaring war, it would have been justly and universally reprobated. The present article prohibits the United States from resorting to the best means, not only of preventing war, but the most efficacious means of supporting it. Hence the surrender of the right is a most impolitic concession, and is infinitely aggravated by its being a voluntary concession; no equivalent being received in return. It is dishonorable to the United States, because it evidences a want of confidence in the discretion of the constituted authorities. The right of sequestration is admitted to be essential to national sovereignty; but lest it should be indiscreetly used by the United States, its guardianship is transferred to Great Britain. I view sequestration as an extraordinary remedy, to be resorted to only on extraordinary occasions. And although I admit that but few cases will justify a resort to it, yet it is one of our best instruments of defence, considering our relationship to



Great Britain, and ought not, therefore, to have been surrendered. This restraint is imposed upon the United States for an unlimited time, and is the more objectionable, as it is a species of legislation against the discretion of legislation.

But, whatever may be the difference of opinion as to the matter of this article, the most partial admirer of this treaty must be unwilling to defend the very extraordinary envoy of the United States for the manner of expression. This measure was proposed in the House of Representatives, as one of the means of self-protection against British depredations. This circumstance was known to the envoy, yet he not only bartered away the measure, but, in doing so, branded the proposition, then depending before the House of Representatives, with the terms "impolitic and unjust." This was an unnecessary imputation, which no minister could have been justifiable in applying to his government. Suppose our envoy had insisted, and the British minister had agreed, that the order of the 6th of November, for taking neutral vessels for adjudication, was piratical, and ought not to be renewed : I will not pretend to say how far the order would justify the epithet ; but what would have been the fate of a British minister under such circumstances ? Utter disgrace would have been one inevitable consequence ; but, an American minister is not only tolerated for a similar conduct, but by some, who even affect to be Americans, applauded. In the present agitation of the public mind, truth seems to be obscured by party irritations, and personal partialities ; but I am convinced, that whenever it may be so far collected as to take a calm review of this transaction, there will exist one universal voice of condemnation.

The eleventh article contains a general stipulation for the liberty of navigation and commerce between the two countries.

The twelfth article is the first of the commercial articles. This article is suspended ; but the want of

a substitute will justify a few remarks. I am not practically acquainted with commercial detail, and of course shall not go much into detail upon the commercial articles; there are, however, some grand principles which apply to commerce, as well as to every other business or science, which will guide me in a few remarks upon this subject. The twelfth article is intended to regulate the trade between the United States and the British West India Islands; so far, therefore, as it permits that trade to be carried on, it is intended as a concession to the United States; the rigid restrictions accompanying the concession, however, render it so paltry, that the Senate rejected the concession, although the envoy had accepted it. But, in what situation has the rejection left the United States? They are now engaged in a commercial treaty with Great Britain, in which they have surrendered almost every commercial advantage they had to bestow, and are still wholly excluded from the West India trade. I have always understood that the West India trade was the great object of commercial negotiation with Great Britain, but now that is formally relinquished. It may be said, that further negotiations upon this subject are promised; but what inducement will Great Britain have to relax her colonial regulations, provided this treaty should be carried into effect? She has already, without this relaxation, placed the commerce between the two countries precisely upon the footing she wished; and the United States have yielded every commercial advantage which might have been exchanged for that relaxation; of course, Great Britain will have no inducement to make, as the United States have nothing to offer for, the relaxation.

The gentleman from Connecticut, (Mr. Swift,) justified the conduct of Great Britain with respect to the West Indies, upon the ground of her colonial rights. He observed that Great Britain had a right to prevent the trade to the West Indies altogether. This is true:



and she has a right to prevent the trade to London, and the United States have a right to interdict her trade to this country. But I would ask, if there be no relaxation of these rights, of what advantage is the treaty? The very object of a commercial treaty is a reciprocal indulgence in the exercise of these rights; and the peculiar dependence of those islands upon the United States for their very subsistence, would command a participation in that trade, if properly used.

The resort to the United States for supplies to facilitate the present operations in the West Indies, is a striking evidence of the importance of the United States to their existence.

It has been observed, that the Spanish treaty has not opened the Spanish islands to the United States. This is true, and it would have been a desirable thing if it had effected this object. But it should be recollected, that the United States have made no commercial concessions to Spain, and that the treaty does not profess to contain any material commercial regulations.

The thirteenth article contains regulations for the East India trade. This article has been held up as an apology for all the commercial defects of the treaty. I do not pretend to be perfectly acquainted with the nature of this trade; but as far as I understand the explanation of the advantages of this article, I cannot concur in the result. The common remark is, that this article secures to the United States a right which before was a courtesy. This remark possesses some plausibility, but no substance; what is called courtesy, is a trade founded upon the interest of the parties. I believe that a courtesy in trade, the basis of which is the interest of the party granting it, is a better security than forced regulations by treaty, without the basis of interest for their support. It is admitted, that the trade to the East Indies, before this treaty, was extremely lucrative, and of course cannot be the effect of the treaty. But the restrictive and monopolizing

hand of Great Britain, is seen to extend itself even to this branch of commerce, in the prohibition of the exportation of East India articles to an European market in American bottoms; which is a restriction that does not now exist, and is another restriction upon the citizens of the United States trading thence, which, in my opinion, will lessen very much the boasted security of right under this article, whenever the interest of the East India company will justify the prohibition of that trade. The restrictions alluded to are in the following words. "Neither is this article to be construed to allow the citizens of the said States to settle or reside within the said territories, or to go into the interior parts thereof, without the permission of the British government established there; and if any transgression should be attempted against the regulations of the British government in this respect, the observance of the same shall and may be enforced against the citizens of America in the same manner as against British subjects or others transgressing the same rule. And the citizens of the United States, whenever they arrive in any port or harbor in the said territories, or if they should be permitted in manner aforesaid, to go to any other place therein, shall always be subject to the laws, government and jurisdiction, of whatever nature established, in such harbor, port or place, according as the same may be. The citizens of the United States, may also touch for refreshment at the island of St. Helena, but subject in all respects to such regulations, as the British government may from time to time establish there."

The fourteenth article relates to the commerce and navigation of the two countries generally, and will be passed over without remark.

The fifteenth article is, in my judgment, highly objectionable.

This article restrains the United States from imposing upon British goods higher duties, &c. than upon those of other foreign nations. It authorizes Great



Britain to equalize the existing unequal duties, between the American and British bottoms, and restrains the United States from reviving the existing inequality. One objection to this article is, that it abandons, without an equivalent, the advantages resulting from the peculiar nature of the trade carried on between the United States and Great Britain. This trade consists, on the part of the United States, mostly of raw materials, which employ the artizans of Britain, and on the part of Great Britain, of the manufactures of artizans in the most finished state; and in addition, there is always a large specie balance against the United States and in favor of Great Britain. It is calculated, that the United States furnish a market for at least one third of the whole surplus manufactures of Great Britain, and for this the most suitable returns for the British market are made. The loss of so valuable a market could not be supplied in any part of the world. It would naturally be supposed, that a trade so favorable would be entitled to some indulgence on the part of the nation receiving the favor, and would command some respect to the nation affording it; provided it had energy enough to avail itself of the advantage; but by this article it is abandoned with a nominal, but no real equivalent. This consideration is greatly strengthened by extending it to the peculiar nature of the trade between the United States and the West Indies, which has been already remarked upon.

Upon this ground the discrimination in favor of American over British bottoms, has been built; and the growth of American shipping has very considerably increased, in consequence of this policy. Our experience, therefore, is bartered away without even the probable calculation of a countervailing advantage.

The apology, made for this article, that the United States have granted no right to Britain, which she did not possess before, is entirely delusive. It may be true, that no new right of sovereignty is granted to Great Britain; but she is now left at liberty to exercise a

right, without hazard, by a restriction imposed upon the United States; and which she had failed to exercise until this restriction was imposed. It is remarkable, from the whole complexion of the treaty, that the advantages, gained by Great Britain, consist in restrictions imposed upon the United States, as if her object was to restrain the United States in the exercise of their rights of sovereignty.

The sixteenth article relates only to the appointment of consuls, and does not require notice.

The seventeenth article is, in my opinion, objectionable in many respects. It yields a formal assent to the seizure and condemnation of an enemy's property on board of American vessels. I expected to have heard this article apologized for and not justified. But I was surprised to hear it asserted, that it was problematical, whether the admission of this principle would be for the advantage or disadvantage of the United States. This is throwing the article into a problem, without attempting to solve it. It is discarding the exercise of the reasoning faculty. From the peculiar situation of the United States in their relations to the rest of the world, the establishment of the principle, that neutral vessels shall give freedom to their cargoes, is to them of primary importance; of course the United States have sedulously exerted themselves, in all their foreign negotiations, to have that principle formally admitted as the law of nations. In every other treaty, entered into by the United States, this principle has been carefully inserted. A formal assent to the contrary doctrine, will probably produce a retrograde effort upon all former exertions, which will require a great length of time to counteract. In the relations between the United States and Great Britain, the principle is peculiarly important. Great Britain possesses the most formidable fleet in existence, and is at least one half her time at war. The United States have an extended commerce without the protection of a fleet, and from her remote situa-



tion from Europe, the great scene of war, as well as from the genius of the American people, are not likely to be involved in European contests. Hence the disadvantage to the United States from this stipulation, will be in proportion to the greater probability of their remaining free from war, than Great Britain, and in proportion to their more defenceless state of commerce. There exists another forcible reason, which ought to have prevented this stipulation—its necessary operation upon the present belligerent powers.

Under this article, French goods, in American bottoms, are made subject to British seizure and condemnation; but British goods, in American bottoms, are free from French seizure and condemnation. This is an evident partiality in favor of Britain against France, which, in my opinion, can hardly be warranted by the species of neutrality, proclaimed by the Executive as the existing state of the nation. It is not only a neutrality, but an impartial neutrality. If a deviation from the strict line of impartial neutrality can be in one case justifiable, I think every American feeling will incline to favor the cause of liberty, and not the cause of despotism.

It is no apology for this article, to say that an article upon the opposite principle could not be obtained: then let none be obtained. It is the assent to the principle, which constitutes the disgrace and the injury to the United States. If other terms could not have been procured, French property, in American bottoms, might have been left to the ordinary operation of the laws of nations, without an explicit and invidious stipulation for its seizure and condemnation.

The eighteenth article defines contraband goods: there is a common, but just objection, made to this article, to wit, that the contraband list is extended, and that several articles are added, which were never before admitted to be contraband. It is to be observed, that all these additional articles are amongst the exports of the United States, whilst most, or perhaps

all of them, are amongst the imports of Great Britain. This circumstance proves, that the reciprocity, assumed by this article, is delusive, and that the advantage is wholly in favor of Great Britain. This article contains also some regulations, respecting the seizure of provisions in American vessels under certain circumstances, which are extremely equivocal and suspicious. I presume this article furnished the pretext to Great Britain, for issuing the late order for seizing American vessels, bound with provisions to France. I will not pretend to say, that the article justifies a construction which might give rise to the order; but the existence of such an order since the signing of the treaty, is universally admitted: but I will assert, that whether the order is to be considered as the practical construction of this article, or an infraction of it, or an infraction of the neutrality of the United States in any respect, it may be attended with the most serious consequences. If this invasion of neutral rights is to be the first fruits of the treaty, the most alarming results may be expected from its further operation. The executive of the United States has declared, that even the permission of this conduct, by one of the belligerent powers, is a breach of neutrality against the other; and, of course, a just cause of war from the injured nation. This doctrine is so clearly established in a letter from Mr. Jefferson, written by order of the President to Mr. Pinckney, dated 7th September, 1793, that I beg the indulgence of the committee in reading two or three paragraphs from the letter: it is in the following words:

“ This act, too, tends directly to draw us from that state of peace in which we are wishing to remain. It is an essential character of neutrality, to furnish no aids, (not stipulated by treaty,) to one party, which we are not equally ready to furnish to the other. If we permit corn to be sent to Great Britain and her friends, we are equally bound to permit it to France. To restrain it would be a partiality, which might lead



to war with France ; and, between restraining it ourselves, and permitting her enemies to restrain it unrightfully, there is no difference. She would consider this as a mere pretext, of which she would not be the dupe, and on what honorable ground could we otherwise explain it ? Thus we should see ourselves plunged, by this unauthorized act of Great Britain, into a war, with which we meddle not, and which we wish to avoid, if justice to all parties, and from all parties will enable us to avoid it. In the case, where we found ourselves obliged by treaty, to withhold from the enemies of France, the right of arming in our ports, we thought ourselves in justice bound to withhold the same right from France also ; and we did it. Were we to withhold from her supplies of provisions, we should, in like manner, be bound to withhold them from her enemies also ; and thus shut against ourselves all the ports of Europe, where corn is in demand, or make ourselves parties in the war. This is a dilemma, which Great Britain has no right to force upon us, and for which no pretext can be found in any part of our conduct. She may, indeed, feel the desire of starving an enemy nation ; but she can give no right of doing it at our loss, nor of making us the instrument of it."

After this unequivocal declaration, made by the Executive of the United States, what plea can be made to the French government, to justify an acquiescence in this conduct of Great Britain ? Whether it be the result of the construction of the treaty, or an infraction of it, what apology can this house make for giving efficacy to the treaty before some satisfactory explanation is made upon this subject ? Suppose the republic of France were to approach the Executive of the United States with this letter in their hand, and say, " Here is your own declaration of your own principles of neutrality ! You have unkindly departed from the principles avowed by yourself, in favor of my enemy. You seem to have concurred in a scheme of distressing a whole nation by withholding supplies of provisions,

when a better office might have been expected from the United States." Suppose a similar appeal were to be made to this House, whilst deliberating upon the expediency or in expediency of giving efficacy to the very treaty which is used by Great Britain to sanctify her conduct ; what reply could be made in either case ? Is any gentleman, who is disposed to carry the treaty into effect, prepared to give a satisfactory answer to so just and so interesting a complaint ? According to the very principles avowed by the Executive, rather than give no cause of umbrage to Great Britain, we give just cause of war to France. Yet it has been said, that it would be disgraceful to the nation not to give efficacy to an instrument containing this disgraceful concession. It is not sufficient to say, that the republic of France will not avail herself of this breach of neutrality, and enter into hostilities against the United States. It is sufficient to show that the United States, by the execution of this treaty, under this construction, will furnish just cause for such a conduct ; and, if this be not the just interpretation of the instrument, no disgrace can be greater than to execute a treaty with a nation at the very moment she is engaged in its infraction.

The nineteenth article contains some regulations respecting privateers, which require no comment.

The twentieth article respects the punishment of pirates, which is not material.

The twenty-first article prohibits American citizens from entering into any foreign service against Great Britain, and defines piracies. There is an existing law in the United States upon this subject, which operates equally towards all the belligerent powers. This act extends no farther than to prohibit American citizens from entering into foreign service within the United States, and applies equally to all foreign powers. But Great Britain, not content with this fair and just regulation, has extended this provision, so far as regards herself, beyond the limits or jurisdiction of the



United States, and entirely destroys the impartiality and neutrality of the existing legal provision. What is the operation of this article upon the belligerent powers? It is this. An American citizen entering into the French service against Great Britain, out of the limits or jurisdiction of the United States is punishable. An American citizen entering into the British service under the same circumstances, is not punishable. Besides, it is a prohibition upon American citizens, which has never been imposed upon the subjects or citizens of any nation, as far as I can recollect. But the practice of entering into foreign service has, at all times, been resorted to as affording the best military education. When it is recollected, that this article is to continue in force for only two years after the termination of the present European war; that there is no probability of the United States being, during that time, engaged in an European war; and that this article is, in no respect, connected with the professed objects of negotiation—has not the stipulation too much the appearance, as well as the effect, of interfering in the present European quarrel, and evincing a partiality for the interests of Great Britain, in violation of our professions of an impartial neutrality? And can this conduct be justified, either from the nature of the cause in which France is engaged, or from the good offices rendered by that great nation to the United States?

The twenty-second article stipulates, that notice shall be given before acts of reprisal, &c. shall be authorized by either of the contracting parties, which is very proper.

The twenty-third article is that, in which I expected to have found some provisions for the protection of American seamen against British impressments: instead of this humane and salutary provision, I found that the officers and crews of those very ships of war, &c. engaged in the unauthorized impressments, are to be hospitably received in the ports of the United States,

and a proper respect to be paid to those officers, according to their respective ranks. Strange substitute this for the protection of American seamen! This article is rendered more aggravating by the practice of the British in impressing American seamen since the signing this very treaty. Whilst the table of the House is almost laboring with evidence of this fact—whilst the fact is not denied by any gentleman on this floor—in the very same breath in which a bill has been passed for the protection and relief of this valuable class of citizens, is the House called upon to make provision for effectuating a treaty of amity, &c. with a nation committing these wrongs—with a nation refusing to respect any evidence of protection which can be afforded to this description of citizens by the government of the United States; and an alarm and wonder is excited, because the House, under these circumstances, should deliberate upon making the provision.

The twenty-fourth article prohibits the arming of ships, by other foreign nations, in the ports of the United States, and selling their prizes; and restrains the United States from selling them more provisions than may be necessary to carry them to the next port of the nation to which they belong. Although I can see no propriety in these stipulations, particularly at this time, I will pass them over without remark.

The twenty-fifth article deserves two remarks—the first is, that it accommodates Great Britain in her scheme of privateering against France, and evidences the same temper with several other articles towards the belligerent powers, which has been remarked upon. The other grows out of the general clause of reservation which it contains. The clause I allude to is in the following words:

“Nothing in this treaty contained, shall, however, be construed or operate contrary to former and existing public treaties with other sovereigns or states. But the two parties agree, that while they continue in amity, neither of them will in future make any treaty



that shall be inconsistent with this or the preceding article."

From this reservation it is evident, that all the articles, which affect the present belligerent powers, are intended as constructive of the treaty between the United States and France; and the construction is so made, as to operate most injuriously to France, and most advantageously to Great Britain. Indeed, this construction seems to have bound so hard upon the French treaty, in the opinion of both negociators, that they, probably apprehending that it might, in some respect, be deemed by the United States a positive infraction of that treaty, thought it necessary to insert this sovereign clause. The whole of the stipulations, which affect the present belligerent powers, are the most reprehensible interferences in the European quarrel, for the following reasons: first, they are wholly unnecessary, because they are totally disconnected with the objects of negotiation between the two countries, and with the usual and natural order of commerce; and of course, must be deemed voluntary on the part of the United States. Second, the interest of the United States could not have been contemplated, because, there is no probability of their being engaged in a naval war in two years after the termination of the present war; at which time these stipulations are to cease; of course the accommodation was intended for the present war, in which the United States are not engaged, and not for a future war, in which they may be engaged. Third, because it is a dishonorable deviation from that impartial neutrality, professed by the United States in favor of a nation the least of all others entitled to the accommodations of the United States, and against a nation the most of all others entitled to them. Fourth, it voluntarily hazards the resentment and hostility of a nation, which, if exerted, might produce to the United States the most serious calamities.

The twenty-sixth article provides, that in case of war between the two countries, the merchants and others

of each of the two countries, residing in the other, shall have time to remove with their effects, &c. which is in every respect proper.

The twenty-seventh article provides for reciprocally giving up certain fugitives from justice, which is not objectionable.

The twenty-eighth article respects the time of the duration of the treaty.

Having examined the treaty at large, with candor, and with the best judgment I possess, I find in it so much to condemn, and so little to applaud, and some of the objectionable parts are so formidable in themselves, that it is wonderful to me, that the treaty should have found an advocate upon its merits, in the United States. Viewing the subject as I do, and believing it my duty to exercise my discretion upon it, nothing, contained in it, can justify me in giving my vote for the necessary provisions to give it efficacy.

[Mr. Giles, after apologizing for the time he had already consumed, proceeded to consider the probable consequences of refusing, or giving efficacy to the treaty.]

Gentlemen in favor of making the provision have suggested two consequences resulting from a refusal, of a very serious nature. The one, what is termed by them the hostility of departments of government, which would necessarily eventuate in a total dissolution of the government itself. The other, a war with Great Britain. If either of these consequences would result, I would vote for the necessary provisions, although the vote would be more against my feelings than any vote I ever before gave. Whether either of these consequences will result, cannot be positively ascertained, but by experiment. The subject, however, like all others, is susceptible of a certain degree of reasoning and calculation.

It should be recollected, that the House is now engaged in the exercise of its constitutional rights. It is called upon to make provision for carrying into ef-



fect the British treaty. Two things naturally present themselves to its consideration. The one, the expediency of the object of expenditure itself, for which the appropriation is required; the second, the ways and means of raising the money. It has been settled by the House, that both are within the constitutional discretion of the House. The President would deprive the House of the right of judging of the expediency of the expenditure, and limit its discretion to the ways and means of furnishing the supplies. This point being previously settled, I shall not enlarge upon it. I propose to give the history of the rise and progress of the treaty. I will be correct as to facts, and precise as to dates. Very shortly after Great Britain became a party to the war against France, the President proclaimed the United States to be in a state of impartial neutrality. The proclamation was dated 22d of April, 1793. An attempt had been made, and was at that time continued, to terminate the differences, which subsisted between the United States and Great Britain, growing out of the inexecution of the treaty of peace. This attempt proved unsuccessful. On the 16th of June, 1793, Great Britain issued an order, which affected the rights of neutral vessels. This order, and the acts committed under it, served to increase the causes of dispute between the two countries.

On the meeting of Congress, in the succeeding fall, the President communicated to them all the negotiations which had taken place between the two countries, intimated, that negotiation did not promise a favorable issue, and that it was left with Congress to say, what further was to be done. In this critical situation of affairs, Congress took the subject into consideration. Great Britain was, at that time at least, considered as the aggressing nation. The first measure of self-protection proposed, was a restriction of the commerce of Great Britain with the United States: this measure was objected to, as being too strong as a commercial measure, and too weak as a political one.

As far, however, as a vote was taken upon it, a majority of the house appeared in favor of that proceeding. On the 6th of November, 1793, an additional order was issued, the purport of which was, to take and bring to legal adjudication all neutral vessels bound to French ports. This additional evidence of hostility gave rise to three other measures; the one was an embargo for a limited time, which was effected; the second was the suspension of commercial intercourse between the United States and Great Britain; the third, a sequestration, or rather the arrestation of debts due to British subjects. The proposition for the arrestation of debts, was moved the 27th of March: the proposition for the suspension of intercourse, 7th of April, 1794. On the 4th of April, 1794, the President laid before the House a communication from Mr. Pinckney, minister from the United States to Great Britain, containing a conversation between Mr. Pinckney and Lord Grenville, of a very extraordinary nature, which always appeared to me to be the ground work of the change, which shortly afterwards took place in the conduct of the Executive of the United States towards the House of Representatives.

The part of the communication alluded to, is in the following words.—Extract of a letter from Mr. Pinckney to the secretary of state, dated 9th of January, 1794.

“Lord Grenville answered, that the only reason for renewing them was, lest the present instruction, being a revocation of that of the 6th of November, might also be deemed to revoke the articles which were connected with it. His lordship then explained the motives which had induced this government to issue the present instruction. The first, he said was the sincere desire of administration to maintain the best understanding and harmony with the United States. The second was, what he could not mention to me officially, but what he still thought it right, I should be apprized of, that no misconception of their motives might be entertained; that he was aware of the delica-



cy of speaking to a foreign minister concerning the internal state of his country, neither could he expect an answer from me on the subject; but that their second reason was, by this conduct, to take away every pretext, from evil disposed persons among us, who according to the intelligence he had received, were endeavoring to irritate our people against Great Britain, as well as to oppose the measures of our own government, and, in short, to reduce us to the present situation of France; a misfortune, which they deprecated, as well for our sakes, as for the common welfare and tranquillity of mankind. He further took occasion to observe, with respect to the conduct of our government, in maintaining our neutrality, that although there were some matters, with which this government was not perfectly satisfied, (and to which, for the same reason, they refrained from giving that opposition they thought they would be justified in doing,) yet, from the general tenor of the conduct of our government, they were convinced, it was their desire to maintain a full neutrality, which was an additional motive for their present conduct."

It is to be remarked, that on the 8th of January, the revocation of the hostile order of the 6th of November took place, and on the next day, after an apology for the acknowledged indelicacy of interfering in the internal affairs of a foreign government, Lord Grenville modestly undertakes to intermeddle with the affairs of the United States. It has always been matter of surprise to me, that the American minister should have listened to such a communication, and still more surprising, that it should have met with a favorable reception in the United States. But the fact is, that on the 19th of April, 1794, the chief justice was taken from the exercise of his judicial duties, and nominated envoy extraordinary to Great Britain, during the pendency of two of the beforementioned propositions in the House of Representatives. The House of Representatives proceeded to pass the bill for the suspension

of commercial intercourse on the 25th of April, by an uncommonly large majority, and on the 27th of April, the bill was negatived by the senate upon the casting vote of the vice-president. The effect of this vote was a discontinuance of the embargo, and an abandonment of all the other measures proposed for self-protection. In these acts will be seen, the commencement of what gentlemen call the hostility of departments; but what I shall term the due exercise of the checks, provided by the constitution. And, if it is to be traced to this source, the House of Representatives will evidently appear not to be the aggressor. The House, viewing their measures defeated by the constitutional check, acquiesced in the decision without a murmur. Now we are told, if the House should exercise its constitutional check, a dissolution of the government would necessarily ensue. This conclusion seems to me without foundation, and ought not to be brought into calculation, in estimating the present question.

The treaty itself was concluded on the 28th of October, 1794. It was communicated to this House, the 1st of March, 1796, having on the same day been promulgated by proclamation declaring it to be obligatory.

The treaty originated from an intimation of lord Grenville, which has always excited my apprehension; it was commenced against the known sense of the House of Representatives, and every step of its progression seems to have been marked with peculiar coercion.

When a British minister undertakes to declare, that the motive for the revocation of a hostile order was, to take away every pretext from evil disposed persons among us, who, according to the intelligence he had received, were endeavoring to irritate our own people against Great Britain, as well as to oppose the measures of our own government, &c., and to assign the same reason, for refraining from giving that opposition to some exceptionable measures of our government, which he otherwise might have done; and when the



United States so far listen to this language, as immediately to enter into negotiation upon the subject, my apprehensions of British interference, of British influence, are strongly excited, particularly when the British minister seems to make a common cause between the two governments against what he is pleased to call evil disposed persons. I will here incidentally remark, that as far as these "evil disposed persons" have produced the revocation of the hostile order of November, and a relaxation of British hostility in other respects, they are certainly entitled to applause from the United States, whatever epithets may have been bestowed upon them by a British minister.

The contents of the treaty have very much confirmed my original apprehensions. Gentlemen have often said, show us the danger of British interference, of British influence. To my mind, the treaty itself contains the evidence. The treaty itself corresponds with what I consider as the object of the British minister in giving the invitation to it.

I find it in the following particular instances. Before the treaty, the right of laying a special, as well as a general embargo existed in the United States: the right of laying a special embargo upon British vessels, is surrendered. Before the treaty, the right of sequestration existed, and the exercise of it was proposed. This right, so far as it respects Great Britain, is forever surrendered. Before the treaty, the right of discriminating against British goods, in favor of those of other nations, existed, and the exercise of it was proposed. This right is surrendered. Before the treaty, the right of suspending commercial intercourse with Great Britain existed, and was proposed to be exercised; the exercise of that right is stipulated against for a limited time, &c. All these are restrictions of the exercise of the rights of national sovereignty, and seem to me complete evidence of British interference.

These circumstances furnish two reflections. The one is, that the British cabinet deem the measures

proposed, to be more efficacious, than they have generally been represented to be in the United States; and hence, the extreme caution to stipulate against the future exercise of them. The other is, that party sensations must have had great influence upon the extraordinary envoy of the United States, to induce his consent to these great abridgments of the rights of national sovereignty. The treaty not only contains abridgments of the national rights, but changes the municipal regulations of the United States: and how have these things been effected?—By the substitution of a foreign power in the place of the House of Representatives. If the treaty-making power be thus extensive, and if it be so absolutely obligatory, as to deprive the House of Representatives of the right of judging as to the expediency of making the provisions for its complete effectuation, of what use is the House of Representatives as a distinct branch of the government? Will it not be a mere formal, and not an efficient branch of the government? An entire new system of jurisprudence may thus be introduced by treaty, and become obligatory upon the House of Representatives—obligatory upon the nation.

Whenever the question, which necessarily results from the unlimited scope given to the treaty-making power, shall be presented to the people of the United States, to wit:—Shall the House of Representatives become a formal, or remain an efficient, branch of the government; they will pause, before they will decide upon its annihilation. Their love of liberty, their love of their own interests, will check, for a moment, personal affections, or antipathies: party sensations, state jealousies will be disarmed, and the people will be found right in their decision.

Even in the midst of the clamor of war and disunion, which has been momentarily excited for a particular object, the people cannot be led to such fatal extremities, as the doctrine contended for would necessarily produce. Much less will this be the case after they



shall have been relieved from these causeless apprehensions.

If therefore, the House should exercise a constitutional right of judging of the propriety of the object of expenditure, and a refusal should be the result of their judgment, I do not believe that it will produce that fatal hostility of departments which would eventuate in a total dissolution of the government; but will be an exercise of one of the salutary checks, provided in the constitution, which, in my opinion, constitute its merit, and not its reproach.

I shall now proceed to consider, whether a war with Great Britain will be the probable consequence of a refusal to make the necessary provision for carrying the British treaty into effect. To my mind, there does not appear to be the least ground for the clamor, which has been excited from this suggestion. I believe that Great Britain will make war upon the United States whenever she deems it her interest to do so; and that the treaty would impose no restraint upon her, if she thought her interest would justify the conduct. I also believe, that if there should be no treaty with Great Britain, she would not go to war with the United States, unless her interest should dictate the measure. In short, I believe, that Great Britain, like all other nations, will make her interest the criterion of her conduct in every question of peace or war.

If this opinion be well formed, the probability of war may be tested by this question. Is it the interest of Great Britain to make war upon the United States in the relative situation of the two countries? Great Britain is now engaged in a war in which the government hazards every thing. She is at this moment engaged in an important enterprize against the French West Indies. She is under the necessity of resorting to the United States for sundry supplies for facilitating the enterprize. The United States are the best commercial customer she has in the world. Under these circumstances, what would be her inducement for

war? What would be her inducements to avoid it? These questions furnish their own answers. The argument of war is an argument of dependence. It is also an argument which will last forever. If the fear of war is now to influence our conduct against our judgments, will not the same argument apply with double force two years after the expiration of the present war, to induce a continuance of the treaty upon its present injurious conditions?

As the argument of war is the chief instrument, by which the treaty is pressed upon the people of the United States, I beg the indulgence of the committee in taking a retrospective view of this subject, and in examining it with some minuteness. Whatever may have been my opinion at the time of receiving the information of the hostile order of the 6th of November, I am now of opinion, that at that time, Great Britain did meditate war against the United States, although I believe there is no danger of it at present.

I believe too, that the neutrality, proclaimed by the United States, does not in the smallest degree, influence the conduct or disposition of Great Britain towards the United States in regard to war or peace, but that the true explanation of her disposition will be found in the course of events in Europe. On the 1st of February, 1793, France declared war against the king of England, and the stadtholder of Holland, and on the 7th of the same month against Spain. France was then at war with the emperor of Germany, and the king of Prussia, &c. A combination of most of the despots of Europe had previously been formed, (it is generally believed on the 21st July, 1791, at Pilnitz,) for the purpose of crushing the revolutionary spirit, which had appeared in France. The accession of Great Britain, Spain, Holland, Portugal and some of the Italian States to the combination already formed, made it the most formidable which has ever appeared in the history of modern times. The most desperate and bloody war, of course, ensued, and im-



mediately succeeded the declaration of war against Great Britain; a series of successes took place, which threatened the absolute subjugation of France.

On the 1st of March, the French sustained a considerable loss by the surprise of the vanguard of their army, on the river Roer; on the 13th, the rebellion of La Vendee commenced; on the 18th, Dumourier was defeated; on the 20th, he abandoned his army; on the 3d of April, his army retreated into France; on the 4th, Dumourier himself was outlawed; on the 13th, France made a declaration against all interference with foreign governments; on the 22d of April, the President issued the proclamation of neutrality; on the 3d of May, the rebellion of Corsica commenced; 29th, the rebellion of the department of Loire; 30th, the rebellion of the city of Lyons; June 2d, thirty-two deputies of the convention, generally called the Brissotines, were arrested. About the same time, a rebellion commenced in the departments of Bouches du Rhone, Calvados and Eure; June the 8th, the first order by Great Britain for seizure of neutral vessels bound to France, with provisions, was issued. It is here to be remarked, that the impartial state of neutrality proclaimed by the President of the United States, on the 22d of the preceding April, was probably known to the British cabinet; but, whilst flushed with these successes in her crusade against liberty, the neutrality of the United States could not protect them from the invasion of their neutral rights. On the 10th of July, Conde surrendered to the Combined Armies; on the 27th, Mayence, &c.; on the 28th, Valenciennes; at the end of July, the Spaniards were in possession of Bellegrade, Collioure, St. Elme, &c. and of the whole department of the eastern Pyrenees, and part of the lower Pyrenees. The Prussians and Austrians were possessed of the lines of Weisemburg, Fort Vauban, &c. and had blockaded Landau. The Piedmontese and Hanoverians had made successful inroads into other parts of France; the royalists of La Vendee were in possession of four departments.

The royalists of the fourth were in possession of Lyons, Marseilles, Toulon, and the departments of Vaucluse and Rhone. On the 28th of August, all Frenchmen were put in requisition; on the 28th, Toulon surrendered to lord Hood, by the royalists; on the 9th of September, the duke of York was defeated; on the 11th, Lyons was subdued; on the 30th of October, the Brissotines were executed. This was nearly the state of the war upon the European continent, at the time of issuing the hostile order of the 6th of November. In this chronological statement of facts, may be found the hostile disposition of Great Britain, widened by that order against the United States. France, convulsed with intestine divisions, which extended to the very heart of the convention, laboring under the most formidable external pressure, was supposed to be an easy prey to this terrible combination of despots: the combination having in view, as I believe, the total destruction of liberty. Great Britain, possessed of the most triumphant and formidable fleet, and guiding almost implicitly the movements of this great combination, already anticipated the destruction of liberty in France, and began to turn her attention towards the same object in the United States. Hence, the order of the 6th of November; hence, the truce between Portugal and Algiers; hence, the talk between lord Dorchester and the Indians. These were all acts of hostility, and evidently produced by the state of things before described. But what events followed these acts of hostility?

A complete reverse of fortune immediately succeeded. The duke of York had been already defeated. On the 17th of December, Toulon was retaken by the French; on the 22d, the Austrian fortified camp near Werth, was attacked and carried; on the 24th and 25th, the army under the command of the duke of Brunswick was defeated at Kellsburg, and the Austrian army at Geisberg; on the 26th, the lines of Weisemburg were forced, and the Austrian army defeated.



On the 8th of January, the hostile order for seizing neutral vessels was revoked, and on the 9th, lord Grenville informed the American minister, that the revocation of the order was to take away all pretext from evil disposed persons amongst us, for indulging their resentment against Great Britain. But, however strongly this motive may have operated on the British cabinet, it certainly was very strongly enforced by the state of things upon the European continent, which was not only changed, but completely reversed between the 6th of November, 1793, and the 8th of January, 1794. It is remarkable, that notwithstanding the several changes in the conduct of Great Britain, towards the United States, they have been uniform in their impartial neutrality towards Great Britain; of course, the uniform disposition of the United States towards Great Britain, could not have produced the fluctuating disposition of Great Britain towards the United States. Great Britain, in all probability, supposed, that, in the intoxication of the combined powers, from their early successes, her influence might unite them in a war against the United States, and perhaps, in the height of her presumption, she might even have indulged the impious hope of regaining her dominion over them: but this sudden reverse of fortune checked her ambitious enterprize. Probably anticipating a speedy dissolution of the combination, and having abandoned all prospects of engaging them in her iniquitous project, and being unwilling to add a new and formidable enemy to the one she already had encountered, and even fearing the effects of her previous hostilities, a sudden revolution is produced in her conduct towards the United States: it is then she is desirous of taking away all pretext from "evil disposed persons," to indulge their resentment against her: it is then the order of revocation is seen. If, then, Great Britain was unwilling to encounter a new enemy, in her then situation, will any change of circumstances justify, at this time, the supposition of a

change of disposition in Great Britain, respecting war with the United States? I believe not. Peace seems to be more important to Great Britain, at this moment, than at any time previously, during the whole period of the war. The nation is desirous of peace, and distressed for provisions. The combination, which indulged her presumptuous hopes, crumbled into dust.

Prussia is at peace with France, and almost at war with Great Britain. Spain is at peace with France, and hardly at peace with Great Britain. Holland is at peace and in alliance with France, and at war with Great Britain. Austria herself is almost exhausted, and desirous of peace; and the continuation of French exertions and successes has excited the admiration and astonishment of the world. Are these the circumstances which would justify apprehensions of war from Great Britain? And are the United States to tremble at the sound of war from a nation thus circumstanced? I trust not. And for what cause is this war to be produced? Because the House of Representatives may deem it inexpedient to become the instrument of giving efficacy to a bad bargain.

I verily believe, that the alarm of war is not serious. I verily believe it is resorted to as an artificial instrument to effect a favorite object. For my part, I believe the hazard so small, as not to constitute an item in estimating the present question.

I believe, that Great Britain considers the United States as a more important commercial connexion, (particularly as it respects her views in the West Indies,) than some gentlemen seem to admit; and I believe also, that she views the United States more formidable as an enemy. I infer these opinions from the avidity with which this treaty seems to have been received in that country, and particularly from an expression in the speech of the king at the late meeting of parliament. Two reflections were strongly impressed upon my mind from that speech. The one, that the treaty is deemed a very advantageous one to



Great Britain, the other, that Great Britain has no appetite for war against the United States, in her present situation.

Hence, I cannot believe, that there is the least possible foundation for the suggestion of the fatal hostility of departments of government, or of war with Great Britain, as amongst the consequences resulting from a refusal to make the necessary provisions for giving efficacy to the treaty.

As the present treaty is incomplete, and as further negotiations are stipulated in the treaty itself, and in the event of a decision either way, are expected; I think the most important consequences of the vote will be these. If the House should refuse to make the provisions for carrying the treaty into effect, the new negotiations will commence without the concessions contained in the present treaty. If the provisions are made, the further negotiations will proceed under the weight of the concessions already made, and very little melioration of the present conditions can be expected, as the United States will have very little left to induce the melioration. And if no final adjustment of differences ensues, the United States will at least continue to possess all the rights attached to national sovereignty.

Much has been said, and much unnecessarily said, about intemperance and heats. I will appeal to the recollection of the committee, whether there ever was a more harmonious session than the present, until this treaty was introduced into the House; and, then, whether its opponents have not discovered at least as much coolness and deliberation as its advocates.

The treaty itself is the torch of discord, which has been unfortunately thrown into the United States, and it is extraordinary to observe, that those who have been most instrumental in introducing it, impute intemperance to others for a firm and decisive opposition to it. It is too much to suppose that the absolute sacrifice of opinion is an obligation due to the embarrassments, into which this treaty has thrown the United States.

Upon the whole, I conscientiously believe the treaty to be a bad one. I believe it contains the completest evidence of British interference in our internal affairs, and has laid the foundation for the further extension of British influence. It has restricted the exercise of some of the important rights of national sovereignty. It has voluntarily hazarded the neutrality of the United States in the present European war, and destroyed all pretensions to its character of impartiality. It has not afforded protection to our neutral rights, which is amongst its great objects; and, in the adjustment of the differences resulting from the inexecution of the treaty of peace, it is unequal and unjust. All these important circumstances considered, and when it is also considered, that the British persevere in impressing our seamen and seizing our vessels in violation of the clearest rights of neutral nations, even since the signing of the treaty, I cannot consent to be the instrument of giving it efficacy. I believe, that it is one of those extraordinary cases, which justify strong and extraordinary resistance.



# SPEECH OF ALBERT GALLATIN,

ON

## THE BRITISH TREATY,

DELIVERED IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, APRIL 26, 1796.



In committee of the whole on the following Resolution, *Resolved*, as the opinion of this committee, that it is expedient to pass the laws necessary for carrying into effect the treaty with Great Britain : Mr. Gallatin spoke as follows :

MR. CHAIRMAN,

I WILL not follow some of the gentlemen, who have preceded me, by dwelling upon the discretion of the legislature; a question which has already been the subject of our deliberations, and been decided by a solemn vote. Gentlemen, who were in the minority on that question, may give any construction they please to the declaratory resolution of the House; they may again repeat, that to refuse to carry the treaty into effect, is a breach of the public faith, which they conceive as being pledged by the President and senate. This has been the ground on which a difference of opinion has existed since the beginning of the discussion. It is because the House thinks that the faith of the nation cannot, on those subjects submitted to the power of Congress, be pledged by any constituted authority other than the legislature, that they resolved, that, in all such cases, it is their right and duty to con-

sider the expediency of carrying a treaty into effect. If the House think the faith of the nation already pledged, they cannot claim any discretion; there is no room left to deliberate upon the expediency of the thing. The resolution now under consideration, is merely "that it is expedient to carry the British treaty into effect," and not whether we are bound by national faith to do it. I will, therefore, consider the question of expediency alone; and thinking, as I do, that the House has full discretion on this subject, I conceive that there is as much responsibility in deciding in the affirmative, as in rejecting the resolution, and that we shall be equally answerable for the consequences that may follow from either.

It is, however, true, that there was a great difference between the situation of this country, in the year 1794, when a negociator was appointed, and that in which we are at present; and that consequences will follow the refusal to carry into effect the treaty in its present stage, which would not have attended a refusal to negotiate, and to enter into such a treaty. The question of expediency, therefore, assumes before us a different and more complex shape, than when before the negociator, the senate, or the President. The treaty, in itself and abstractedly considered, may be injurious; it may be such an instrument as, in the opinion of the House, ought not to have been adopted by the Executive; and yet, such as it is, we may think it expedient, under the present circumstances, to carry it into effect. I will, therefore, first take a view of the provisions of the treaty itself, and in the next place, supposing it is injurious, consider, in case it is not carried into effect, what will be the natural consequences of such refusal.

The provisions of the treaty relate either to the adjustment of past differences, or to the future intercourse of the two nations. The differences, now existing between Great Britain and this country, arose either from non-execution of some articles of the trea-



ty of peace, or from the effects of the present European war. The complaints of Great Britain, in relation to the treaty of 1783, were confined to the legal impediments, thrown by the several states in the way of the recovery of British debts. The late treaty provides adequate remedy on that subject; the United States are bound to make full and complete compensation for any losses arising from that source, and every ground of complaint on the part of Great Britain is removed.

Having thus done full justice to the other nation; America has a right to expect that equal attention shall be paid to her claims arising from infractions of the treaty of peace, viz. compensation for the negroes carried away by the British; restoration of the western posts, and indemnification for their detention.

On the subject of the first claim which has been objected to as groundless, I will observe, that I am not satisfied that the construction given by the British government to that article of the treaty, is justified even by the letter of the article. That construction rests on the supposition that slaves come under the general denomination of booty, and are alienated the moment they fall into the possession of an enemy, so that all those who were in the hands of the British when the treaty of peace was signed, must be considered as British, and not as American property, and are not included in the article. It will, however, appear, by recurring to Vattel when speaking of the right of *Postliminium*, that slaves cannot be considered as part of the booty which is alienated by the act of capture, and that they are to be ranked rather with real property, to the profits of which only the captors are entitled. Be that as it may, there is no doubt that the construction given by America, is that which was understood by the parties at the time of making the treaty. The journals of Mr. Adams, quoted by a gentleman from Connecticut, (Mr. Coit,) prove this fully; for when he says, that the insertion of this article was

alone worth the journey of Mr. Laurens from London, can it be supposed that he would have laid so much stress on a clause, which, according to the new construction, now attempted to be given, means only that the British would commit no new act of hostility—would not carry away slaves, at that time in possession of Americans? Congress recognized that construction by adopting the resolution which has been already quoted, and which was introduced upon the motion of Mr. Alexander Hamilton; and it has not been denied that the British ministry, during Mr. Adams' embassy, also agreed to it.

But when our negociator had, for the sake of peace, waved that claim; when he had also abandoned the right which America had to demand an indemnification for the detention of the posts, although he had conceded the right of a similar nature, which Great Britain had for the detention of debts; when he had thus given up every thing which might be supposed to be of a doubtful nature, it might have been hoped that our last claim—a claim on which there was not, and there never had been any dispute—the western posts should have been restored according to the terms of the treaty of peace. Upon what ground the British insisted, and our negociator conceded, that this late restitution should be saddled with new conditions, which made no part of the original contract, I am at a loss to know. British traders are allowed, by the new treaty, to remain within the posts, without becoming citizens of the United States; and to carry on trade and commerce with the Indians living within our boundaries, without being subject to any control from our government. In vain is it said, that if that clause had not been inserted, we would have found it our interest to effect it by our own laws. Of this we are alone competent judges; if that condition is harmless at present, it is not possible to foresee whether, under future circumstances, it will not prove highly injurious; and whether harmless or not, it is not less a perma-



ment and new condition imposed upon us. But the fact is, that by the introduction of that clause, by obliging us to keep within our jurisdiction, as British subjects, the very men, who have been the instruments used by Great Britain to promote Indian wars on our frontiers; by obliging us to suffer those men to continue their commerce with the Indians living in our territory, uncontrolled by those regulations, which we have thought necessary in order to restrain our own citizens in their intercourse with these tribes, Great Britain has preserved her full influence with the Indian nations. By a restoration of the posts under that condition, we have lost the greatest advantage that was expected from their possession, viz. future security against the Indians. In the same manner have the British preserved the commercial advantages, which result from the occupancy of those posts, by stipulating as a permanent condition, a free passage for their goods across our portages, without paying any duty.

Another article of the new treaty, which is connected with the provisions of the treaty of 1783, deserves consideration; I mean what relates to the Mississippi. At the time when the navigation of that river to its mouth, was, by the treaty of peace, declared to be common to both nations, Great Britain communicated to America a right, which she held by virtue of the treaty of 1763, and as owner of the Floridas; but since that cession to the United States, England has ceded to Spain her claim on the Floridas, and does not own, at the present time, an inch of ground, either on the mouth or on any part of that river. Spain now stands in the place of Great Britain, and by virtue of the treaty of 1783, it is to Spain and America, and not to England and America that the navigation of the Mississippi is at present to be common. Yet, notwithstanding this change of circumstances, we have repeated that article of the former treaty in the late one, and have granted to Great Britain the additional privilege of using our ports on the eastern side of the river,

without which, as they own no land thereon, they could not have navigated it. Nor is this all. Upon a supposition that the Mississippi does not extend so far northward as to be intersected by a line drawn due west from the Lake of the Wood, or, in other words, upon a supposition that Great Britain has not a claim even to touch the Mississippi, we have agreed, not upon what will be the boundary line, but that we will hereafter negotiate to settle that line. Thus leaving to future negotiation what should have been finally settled by the treaty itself, in the same manner as all other differences were, is calculated for the sole purpose, either of laying the foundation of future disputes, or of recognizing a claim in Great Britain on the waters of the Mississippi, even if their boundary line leaves to the southward the sources of that river. Had not that been the intention of Great Britain, the line would have been settled at once by the treaty, according to either of the two only rational ways of doing it in conformity to the treaty of 1783, that is to say, by agreeing that the line should run from the northernmost sources of the Mississippi, either directly to the western extremity of the Lake of the Wood, or northwardly till it intersected the line to be drawn due west from that lake. But, by repeating the article of the treaty of 1783; by conceding the free use of our ports on the river, and by the insertion of the fourth article, we have admitted, that Great Britain, in all possible events, has still a right to navigate that river from its source to its mouth. What may be the future effects of these provisions, especially as they regard our intercourse with Spain, it is impossible at present to say; but although they can bring us no advantage, they may embroil us with that nation; and we have already felt the effect of it in our late treaty with Spain, since we were obliged, on account of that clause of the British treaty, to accept as a gift and a favor the navigation of that river which we had till then claimed as a right.

The seventh article of the treaty is intended to ad-



just those differences which arose from the effects of the present European war. On that article it may also be observed, that whilst it provides a full compensation for the claims of the British, it is worded in such a manner, when speaking of the indemnification for spoliations committed on the American commerce, as will render it liable to a construction very unfavorable to our just claims on that ground. The commissioners, to be appointed by virtue of that article, are to take cognizance and to grant redress only in those cases where, by reason of irregular or illegal captures or condemnations, made under color of authority or commissions from the king of Great Britain, losses have been incurred, and where adequate compensation cannot now be actually obtained by the ordinary course of judicial proceedings. If Great Britain should insist that, since the signing of the treaty, they had, by admitting appeals to their superior courts, afforded a redress by the ordinary course of judicial proceedings; if those courts were to declare, that the captures, complained of, were neither illegal, nor made under color, but by virtue of authority or commissions from the king, and if that construction should prevail with the commissioners; the indemnification which our plundered merchants would actually receive, in consequence of the provisions of this article, would fall very short of their expectations and of their just claims. Yet this article, considering the relative situation of the two countries, at the time when the negotiation took place, is as much as could reasonably have been expected by America. When a weak nation has to contend with a powerful one, it is gaining a great deal, if the national honor is saved even by the shadow of an indemnification, and by an apparent concession on the part of the aggressor; and however objectionable the article might appear at first view, I am, on the whole, satisfied with it.

The remaining provisions of the treaty have no connexion with past differences; they make no part of

the convention which was the avowed object of Mr. Jay's mission: they apply solely to the future intercourse of the two nations as relating to commerce and navigation; and had they been entirely omitted, our differences would have been nevertheless adjusted. It is agreed on all hands, that, so far as relates to our commerce with Great Britain, we want no treaty. The intercourse, although useful perhaps to both parties, is more immediately necessary to England, and her own interest is a sufficient pledge of her granting us at all times a perfect liberty of commerce to her European ports. If we want to treat with her, it must be in order to obtain some intercourse with her colonies, and some general security in our navigation.

The twelfth and thirteenth articles were obtained by our negociator with a view to the first object. The twelfth article, however, which relates to our intercourse with the West Indies, is found, upon examination, to be accompanied by a restriction of such nature, that what was granted by Great Britain as a favor, has been rejected by the senate as highly injurious. The thirteenth article, which relates to the East Indies, and remains a part of the treaty, is, like the twelfth, conferring a favor limited by restrictions, and so far as I can depend on the opinion of the best informed judges on this subject, these restrictions put the trade in a more disadvantageous situation than it was before the treaty. As the West India article declares, that we shall not re-export any produce of those islands to Europe, so the East India article, at the same time that it grants us the privilege, which we enjoyed before, and which we enjoyed because it was the interest of the East India company to grant it to us—that of being admitted into the British sea-ports there—prohibits our carrying any articles from thence to any place except to America; which regulation amounts to a total prohibition to export East India articles to China, or to obtain freights back to Europe; and upon the whole, I cannot help thinking, from what has fallen



on this floor, and what I have heard elsewhere, from gentlemen of great commercial knowledge, that if the East India commerce had been as generally understood in America as the West India trade, that so much boasted of article would have met the same fate in the senate with the twelfth article.

But if, leaving commercial regulations, we shall seek in the treaty for some provisions securing to us the free navigation of the ocean against any future aggressions on our trade, where are they to be found? I can add nothing to what has been said on the subject of contraband articles: it is, indeed, self-evident, that, connecting our treaty with England on that subject with those we have made with other nations, it amounts to a positive compact to supply that nation, exclusively, with naval stores, whenever they may be at war. Had the list of contraband articles been reduced—had naval stores and provisions, our two great staple commodities, been declared not to be contraband, security would have been given to the free exportation of our produce; but instead of any provision being made on that head, an article of a most doubtful nature, and on which I will remark hereafter, has been introduced. But I mean, for the present, to confine my observations to the important question of free bottoms making free goods. It was with the utmost astonishment that I heard the doctrine advanced on this floor, that such a provision, if admitted, would prove injurious to America, inasmuch as, in case of war between this country and any other nation, the goods of that nation might be protected by the English flag. It is not to a state of war that the benefits of this provision would extend; but it is the only security which neutral nations can have against the legal plundering on the high seas, so often committed by belligerent powers. It is not for the sake of protecting an enemy's property; it is not for the sake of securing an advantageous carrying trade; but it is in order effectually to secure ourselves against sea ag-

gressions, that this provision is necessary. Spoliations may arise from unjust orders, given by the government of a belligerent nation to their officers and cruisers, and these may be redressed by application to, and negociation with, that order. But no complaints, no negociations, no orders of government itself, can give redress, when those spoliations are grounded on a supposition, that the vessels of the neutral nation have an enemy's property on board, as long as such property is not protected by the flag of the neutral nation; as long as it is liable to be captured, it is not sufficient, in order to avoid detention and capture, to have no such property on board. Every privateer, under pretence that he suspects an enemy's goods to be part of a cargo, may search, vex and capture a vessel; and if in any corner of the dominions of the belligerent power, a single judge can be found inclined, if not determined, to condemn, at all events, before his tribunal; all vessels so captured will be brought there, and the same pretence which caused the capture will justify a condemnation. The only nation who persists in the support of this doctrine, as making part of the law of nations, is the first maritime power of Europe, whom their interest, as they are the strongest, and as there is hardly a maritime war in which they are not involved, leads to wish for a continuation of a custom, which gives additional strength to their overbearing dominion over the seas. All the other nations have different sentiments and a different interest. During the American war, in the year 1780, so fully convinced were the neutral nations, of the necessity of introducing that doctrine of free bottoms making free goods, that all of them, excepting Portugal, who was in a state of vassallage to, and a mere appendage of Great Britain, united in order to establish the principle, and formed for that purpose the alliance known by the name of the armed neutrality. All the belligerent powers, except England, recognized and agreed to the doctrine. England itself, was



obliged, in some measure, to give for a while, a tacit acquiescence. America, at the time, fully admitted the principle, although then at war. (Mr. Gallatin quoted, on this subject, the journals of Congress of the year 1780, page 210, and of the year 1781, page 80,) It has been introduced into every other treaty we have concluded since our existence as a nation. Since the year 1780, every nation, so far as my knowledge goes, has refused to enter into a treaty of commerce with England, unless that provision was inserted. Russia, for that reason, would not renew their treaty, which had expired in 1786; although I believe, that during the present war, and in order to answer the ends of the war, they formed a temporary convention, which I have not seen, but which, perhaps, does not include that provision. England consented to it, in her treaty with France, in 1788, and we are the first neutral nation who has abandoned the common cause, given up the claim, and by a positive declaration, inserted in our treaty, recognized the contrary doctrine. It has been said, that under the present circumstances, it could not be expected that Great Britain would give up the point; perhaps so; but the objection is not, that our negociator has not been able to obtain that principle, but that he has consented to enter into a treaty of commerce, (which we do not want, and which has no connexion with an adjustment of our differences with Great Britain,) without the principle contended for, making part of that treaty. Unless we can obtain security for our navigation, we want no treaty; and the only provision which can give us that security, should have been the *sine qua non* of a treaty. On the contrary, we have disgusted all the other neutral nations of Europe, without whose concert and assistance there is but little hope that we shall ever obtain that point; and we have taught Great Britain, that we are disposed to form the most intimate connexions with her, even at the expense of recognizing a principle the most fatal to the liberty of commerce, and to the security of our navigation.

But, if we could not obtain any thing which might secure us against future aggressions, should we have parted, without receiving any equivalent, with those weapons of self-defence, which, although they could not repel, might, in some degree, prevent any gross attacks upon our trade—any gross violation of our rights as a neutral nation? We have no fleet to oppose or to punish the insults of Great Britain; but, from our commercial relative situation, we have it in our power to restrain her aggressions, by restrictions on her trade, by a total prohibition of her manufactures, or by a sequestration of the debts due to her. By the treaty, not satisfied with receiving nothing, not satisfied with obtaining no security for the future, we have, of our own accord, surrendered those defensive arms, for fear they might be abused by ourselves. We have given up the two first, for the whole time during which we might want them most, the period of the present war; and the last, the power of sequestration, we have abandoned forever: every other article of the treaty of commerce is temporary; this perpetual.

I shall not enter into a discussion of the immorality of sequestering private property. What can be more immoral than war; or plundering on the high seas, legalized under the name of privateering? Yet self-defence justifies the first, and the necessity of the case may, at least, in some instances, and where it is the only practicable mode of warfare left to a nation, apologize even for the last. In the same manner, the power of sequestration may be resorted to, as the last weapon of self-defence, rather than to seek redress by an appeal to arms. It is the last peace measure that can be taken by a nation; but the treaty, by declaring, that in case of national differences it shall not be resorted to, has deprived us of the power of judging of its propriety, has rendered it an act of hostility, and has effectually taken off that restraint, which a fear of its exercise laid upon Great Britain.

Thus it appears, that, by the treaty, we have promis-



ed full compensation to England for every possible claim they may have against us, that we have abandoned every claim of a doubtful nature, and that we have consented to receive the posts, our claim to which was not disputed, under new conditions and restrictions never before contemplated—that after having obtained, by those concessions, an adjustment of past differences, we have entered into a new agreement, unconnected with those objects, which have heretofore been subjects of discussion between the two nations ; and that, by this treaty of commerce and navigation, we have obtained no commercial advantage, which we did not enjoy before, we have obtained no security against future aggressions, no security in favor of the freedom of our navigation, and we have parted with every pledge we had in our hands, with every power of restriction, with every weapon of self-defence which is calculated to give us any security.

There is yet another article which stands by itself, unconnected either with adjustment of past disputes, or with commercial regulations ; I mean the ninth article, which provides that British subjects now holding lands in the United States, shall continue to hold them, and may sell or devise the same ; and that neither they, nor their heirs or assigns shall, so far as may respect the said lands, and the legal remedies incident thereto, be regarded as aliens. I am not a lawyer, and, in expressing an opinion, I mean nothing more than to communicate my doubts, and ask for an explanation. There would be no difficulty in finding the meaning of the article, did it apply only to those British subjects, who have acquired lands under the laws of the states ; but the former connexion of this country with England, renders the subject difficult to be explained, even by men of legal abilities ; for its explanation must depend on the consequences of a principle unknown to the laws of England. The principle of the English law is, that no subject can shake his allegiance, that is to say, that no man who was once a citizen, can become

an alien. Yet, by the effect of the revolution, British subjects, who, before 1776, had a right to hold lands in America, as part of the British empire, have become aliens in the United States, and the effect of that alienage upon their titles to such lands, and how far that effect is changed by the operation of the treaty, seem to me to be questions of a very nice nature. I will, however, beg leave to suggest what to me appears to be the effect of the treaty. So far as lands have been confiscated by the laws of any state, and those laws carried into effect, and so far as such lands having been considered as escheated, an office has been found, and the escheat been completed, I conceive the treaty will create no alteration; but where the lands have not been confiscated, either because no laws had been passed for that purpose, or because they had not been carried into effect before the treaty of 1783, and where the legal formalities of finding an office, &c. necessary to complete an escheat have been neglected, it seems to me the treaty may operate in three ways. Firstly, it will prevent any state from completing an escheat by finding an office, &c. when they have neglected doing it. Secondly, it will enable the British subjects to sell or devise, and therefore to convert their life estate into a fee-simple for ever. And thirdly, it will enable those subjects to institute suits in courts for the recovery of those lands, providing them with a legal remedy, they had not before, since their alienage would have been a sufficient bar against bringing real actions. If the treaty may be supposed to have that effect, its tendency so far as relates, not to private estates, but to the former proprietary estates, may prove vexatious and injurious to several of the states. It will strengthen the proprietary claims of the Penn family, not in Pennsylvania, but in the state of Delaware. It may have some effect on the decision of the Fairfax claim in Virginia, and even on such parts of the lands of Maryland,



which have been sold, although formerly the property of the Baltimore family, as vacant lands and not as confiscated lands. In North Carolina, the proprietary claim of the Grandville family, which includes the best half of that state and of the southwestern territory, may be revived by the treaty; for although a law has passed in that state to confiscate the lands of all the British subjects who should be absent on a certain day, yet the proprietary lands were not meant to be comprehended within that provision; the commissioners, who were to sell the confiscated property, never disposed of a single acre of the lands, which were granted by another law of the state as vacant and not as confiscated lands, without having been actually escheated to the state by an office being found or any other formality whatever; and they are even expressly distinguished from land to be confiscated by the very act passed for the purpose of confiscating. (Mr. Gallatin here read the clause of the act he alluded to.) Supposing, however, every thing I have said on this subject as very doubtful, it is not less true that this article, under an appearance of reciprocity, grants a positive advantage to Great Britain without any equivalent being given—is, if not an infraction, at least a restriction over the legislative powers, and an exception to the laws of the different states on a subject of a delicate nature—may involve not only some of our citizens, but even several of the states in complex lawsuits and serious embarrassment, and although it may thus create much mischief, can give us no possible benefit.

From the review I have taken of the treaty, and the opinions I have expressed, it is hardly necessary for me to add, that I look upon the instrument as highly injurious to the interests of the United States, and that I earnestly wish it never had been made; but whether in its present stage, the House ought to refuse to carry it into effect, and what will be the probable conse-

quences of a refusal, is a question which requires the most serious attention, and which I will now attempt to investigate.

Should the treaty be finally defeated, either new negotiations will be more successful, or Great Britain will refuse to make a new arrangement, and leave things in the situation in which they now are, or war will be the consequence. I will, in the course of my observations, make some remarks on the last supposition. I do not think that the first will be very probable at present, and I am of opinion, that under the present circumstances, and until some change takes place in our own or in the relative political situation of the European nations, it is to be apprehended, that, in such a case, new negotiations will either be rejected, or prove unsuccessful. Such an event might have perhaps followed a rejection of the treaty even by the senate or by the President. After the negociator, employed by the United States, had once affixed his signature, it must have become very problematical, unless he had exceeded his powers, whether a refusal to sanction the contract he had made, would not eventually defeat, at least for a time, the prospect of a new treaty. I conceive that the hopes of obtaining better conditions, by a new negotiation, are much less in the present stage of the business than they were, when the treaty was in its inchoate form before the Executive; and in order to form a just idea of the consequences of a rejection at present, I will contemplate them upon this supposition, which appears to me most probable, to wit, that no new treaty will take place for a certain period of time.

In mentioning my objections to the treaty itself, I have already stated the advantages which, in my opinion, would result to the United States from the non-existence of that instrument; I will not repeat; but proceed at once to examine what losses may accrue, that can be set off against those advantages.

As I am not sensible that a single commercial ad-



vantage has been obtained by the treaty, I cannot mention the loss of any, as a mischief that may attend its rejection. If, however, the East India article is supposed to be beneficial, it must, on the other hand, be conceded, that we have enjoyed every benefit arising from it for a number of years, without treaty, and consequently because it was the interest of the East India company that we should enjoy them, and that it is not probable, that circumstances will so far change there, during the short period to which this article is limited, as to induce that company to adopt a different policy towards us.

The indemnification, to be obtained from Great Britain for spoliations on our trade, if considered as a national reparation for a national aggression, is certainly, as I have already stated it, an important object gained by the treaty. But, if it is to be viewed as a money transaction, and its loss as a national loss of money, it will be well to examine, whether in this point of view, viz. of money, we should not be gainers, on the whole, by not carrying the treaty into effect. I have made no objections to that article of the treaty which relates to British debts. Whatever the amount may be, if it is just that we should pay them, it must be just to pay that amount; but when we are examining the situation in which we should be, if we had no treaty, when we are calculating the losses we are to experience by obtaining no compensation for our claims, it is right to consider the amount of those claims, and to compare it with the probable amount of the claims of the other party, and of the sums of money which a non-execution of the treaty, and a refusal on the part of Great Britain to do us justice, to indemnify us for our own losses and to enter into new negotiations, would justify us in withholding. That subject has already undergone a full discussion, and I will recall the attention of the committee only to the demand of Great Britain for interest on the British debts. It is well known that our courts have uniformly

refused to allow to the British creditors the interest which has accrued on their demands during the late war, that is to say, during eight years. Although we have contended that those decisions cannot be considered as legal impediments, yet it has been insisted by Great Britain that they are. The two governments have come to issue on this point, as may be seen by recurring to the printed correspondence of Mr. Jefferson. It is one of the points to which the jurisdiction of the commissioners must extend, since, on account of the decisions of our courts, it is one of the cases where compensation could not be obtained, and has been refused by the ordinary course of judicial proceedings; and for greater security, the commissioners are, by the treaty, empowered to take into their consideration all claims, whether of principal or interest, or balances of principal or interest. These commissioners must be considered less as judges, than as political agents, who will come with a determination to support the claims, contended for by their respective nations. They will, therefore, disagree on the subject of war interest, and it will be left solely to the fifth commissioner, that is to say, to lot, to decide whether that interest shall be paid by the United States, or not. Eight years interest amounts to one half of the whole amount of debts due by America to Great Britain at the beginning of the war; for it must be remarked, that this claim extends to all debts whether good or bad, because it has been refused on all, and can be recovered, by the ordinary course of judicial proceedings, on none. What those debts amount to, is very uncertain. I have seen a variety of calculations on this subject. If they are estimated, as they have been by some, at five millions sterling, one half of them will amount to more than twelve millions of dollars; and when we take into consideration the amount of principal we shall have to pay, on the principles stated by a gentleman from Virginia, (Mr. Nicholas,) his calculation of near fifteen millions of dollars in the whole,



will not seem exaggerated. But even taking the amount of those debts at the lowest estimate, the amount of war interest, and of the principal we shall have to pay, far exceeds the amount, which the most sanguine among us expected to recover from the government of Great Britain, by virtue of the treaty, on account of the spoliations committed on our trade.

The only positive loss, therefore, which, in my opinion, will arise from our having no treaty, is that of the western posts. I have already stated, that, surrendered in the manner settled by the treaty, I conceive them to be of very insignificant value in a commercial point of view, and of very little use, if any, as a security against the Indians; for it must be remembered, that our own laws, for the purpose of preserving peace with those tribes, have enacted, under severe penalties, that our own citizens shall, on no account whatever, cross over the boundary line between them and ourselves, although within the territory ceded to us by Great Britain, unless they have special licenses from our government. It is, therefore, our own opinion, that peace cannot be preserved with the Indians, if ever our own citizens have a free and uncontrolled intercourse with them. And yet it is a positive condition of the treaty, that the British traders, settled at Detroit and in the other posts—men, who from habit, are attached to Great Britain, and inimical to the United States; who have given repeated proofs of that enmity; who possess an unbounded influence amongst the Indians, and have been the chief promoters of the Indian war—that these men may remain there as British subjects, and that they and all other British subjects may have the privilege forever to pass over that line, which we have forbidden our citizens to cross, and may continue to carry on with the Indians living within our territory, a free trade and commerce uncontrolled by our laws and by those regulations, which we have imposed, or may impose on our citizens; in other words, we have agreed that these men may preserve their baneful influence over the Indi-

ans, and their allegiance to Great Britain; and we may, therefore, expect that influence to be exerted which suits the interest, and will be in conformity to the directions of their sovereign. I must, therefore, repeat, that as I think that at any time since 1789, we might have had the posts without these conditions, provided we had then agreed, as we have by the late treaty, to make a compensation for the British debts, I had much rather that we could again be placed in the situation in which we were two years ago; and I will not hesitate to declare that, in my opinion, our claim to the posts, and the chance we had to obtain them, by negociation, in the year 1793, was better than their possession upon the terms of the treaty. But as the question now is not what would be best to be done, if no treaty had been made; as the negociator has put us in a worse situation than we were before that treaty; as the subject of the present examination is the consequences that will follow, if no treaty at all is made; and as one of those consequences will undoubtedly be a further detention of the posts, and less hope to obtain them in future, I will certainly agree that it is better to have them, even encumbered with these conditions, than not to have them at all. For although they may not be of an immediate advantage, either as a commercial object or as giving security against the Indians, their possession will enable us to prevent a further extension of the British settlements within our territory, and by forming settlements of our own, to acquire by degrees sufficient strength in that quarter, to have nothing to fear either from the British or from the Indians.

The further detention of the posts, the national stain that will result from receiving no reparation for the spoliations on our trade, and the uncertainty of a final adjustment of our differences with Great Britain, are the three evils which strike me as resulting from a rejection of the treaty; and when to those considerations I add that of the present situation of this country,



of the agitation of the public mind, and of the advantages that will arise from union of sentiments, however injurious and unequal I conceive the treaty to be, however repugnant it may be to my feelings, and perhaps to my prejudices, I feel induced to vote for it, and will not give my assent to any proposition which will imply its rejection. But the conduct of Great Britain, since the treaty was signed, the impressment of our seamen, and their uninterrupted spoliations on our trade, especially by seizing our vessels laden with provisions, a proceeding which they may, perhaps, justify by one of the articles of the treaty, are such circumstances as may induce us to pause a while, in order to examine whether it is proper, immediately and without having obtained any explanation thereon, to adopt the resolution on the table, and to pass, at present, all the laws necessary to carry the treaty into effect.

The eighteenth article of the treaty, the provision article, as it is called, has already been fully investigated by a gentleman from Virginia, (Mr. Nicholas,) and I have been astonished, that those gentlemen who have spoken in favor of the treaty, have given no direct answer to his remarks on that point. The second clause of that article declares, that, "whenever provisions, becoming contraband according to the existing laws of nations, shall for that reason be seized; the same shall not be confiscated, but the owners indemnified." This clause of the article does not contemplate provisions, or other articles not generally contraband, when attempted to be carried to a besieged place; for the third clause of the same article provides for the last mentioned case, and declares, "that a vessel thus laden and sailing for a besieged place shall not be detained, nor her cargo, if not contraband, confiscated, unless after notice she shall again attempt to enter;" which implies, that, in case of notice thus given, provisions may be confiscated, whilst the provisions contemplated in the second clause are not to be confiscated. It is, therefore, admitted by that arti-

cle, that there are cases, other than that of provisions and other articles not generally contraband, carried to a besieged place, in which those provisions and articles may be regarded as contraband. It is admitting a principle unknown to the laws of nations, infringing our neutrality, destructive of our trade, and liable to every misconstruction. The British have shown, what they meant by provisions becoming contraband according to the existing laws of nations, when they have taken our vessels laden with provisions, and given us an indemnification of ten *per centum*. So immediately connected is that proceeding of the British, with this article, that even the gentleman from Connecticut, (Mr. Hillhouse,) could not separate them in his own mind; and when speaking of the indemnification, we are to obtain in such cases, as are contemplated by the article, he repeatedly called it "ten *per centum*;" thinking only of the compensation, given by the British in the case beforementioned, as one contemplated in the article, since the words ten *per centum* are not to be found in the clause itself. It is not, however, material at present to decide, whether a fair construction of the article justifies the conduct of the British or not. The fact is uncontroverted; they still continue to impress our seamen and to capture our vessels. If they pretend to justify this conduct by the treaty, it becomes necessary to obtain an explanation of the doubtful articles; if there is nothing in the treaty to justify it, their acts are acts of hostility, and an infraction of the treaty; and, even according to the doctrine of those gentlemen, who think, that, in common cases, the House has no discretion, the treaty once broken by one party, is no longer binding on the other; and it is the right as well as the duty of this House, not to proceed to pass the laws necessary to carry it into effect, until satisfactory assurances are obtained, that these acts shall cease, and until Great Britain has evinced a friendly disposition towards us.

Whatever evils may follow a rejection of the treaty,



they will not attend a postponement. To suspend our proceedings, will not throw us into a situation, which will require new negotiations, new arrangements on the points already settled and well understood by both parties. It will be merely a delay, until an explanation of the late conduct of the British towards us may be obtained, or until that conduct may be altered. If, on the contrary, we consent to carry the treaty into effect, under the present circumstances, what will be our situation in future? It is by committing the most wanton and the most unprovoked aggressions on our trade; it is, by seizing a large amount of our property as a pledge for our good behaviour, that Great Britain has forced the nation into the present treaty. If by threatening new hostilities, or rather by continuing her aggressions, even after the treaty is made, she can force us also, to carry it into effect, our acquiescence will be tantamount to a declaration, that we mean to submit in proportion to the insults that are offered to us; and this disposition being once known, what security have we against new insults, new aggressions, new spoliations, which probably will lay the foundation of some additional demands on the part of the aggressor, and of some additional sacrifices on ours? It has been said, and said with truth, that to put up with the indignities we have received, without obtaining any reparation, which will probably be the effect of defeating the treaty, is highly dishonorable to the nation. In my opinion, it is still more so, not only tamely to submit to a continuation of these national insults, but while they thus continue uninterrupted, to carry into effect the instrument we have consented to accept as a reparation for former ones. When the general conduct of Great Britain towards us, from the beginning of the present war, is considered; when the means, by which she has produced the treaty, are reflected on; a final compliance on our part, while she still persists in that conduct, whilst the chastening rod of that nation is still held over us, is, in my opinion, a dereliction of na-

tional interest, of national honor, of national independence.

But it is said, that war must be the consequence of our delaying to carry the treaty into effect. Do the gentlemen mean, that if we reject the treaty, if we do not accept the reparation there given to us, in order to obtain redress, we have no alternative left but war? If we must go to war in order to obtain reparation for insults and spoliations on our trade, we must do it, even if we carry the present treaty into effect; for this treaty gives us no reparation for the aggressions committed since it was ratified, has not produced a discontinuance of those acts of hostility, and gives us no security that they shall be discontinued. But the arguments of those gentlemen, who suppose that America must go to war, apply to a final rejection of the treaty, and not to a delay. I do not propose to refuse the reparation offered by the treaty, and to put up with the aggressions committed; I have agreed, that that reparation, such as it is, is a valuable article of the treaty; I have agreed, that, under the present circumstances, a greater evil will follow a total rejection of, than an acquiescence in the treaty. The only measure, which has been mentioned, in preference of the one now under discussion, is a suspension, a postponement whilst the present spoliations continue, in hopes to obtain for them a similar reparation, and assurances that they shall cease.

But is it meant to insinuate that it is the final intention of those, who pretend to wish only for a postponement, to involve this country in a war? There has been no period during the present European war, at which it would not have been equally weak and wicked to adopt such measures, as must involve America in the contest, unless forced into it for the sake of self-defence; but, at this time, to think of it would fall but little short of madness. The whole American nation would rise in opposition to the idea; and it might, at least have been recollected, that war cannot be declared, except



by Congress, and that two of the branches of government are sufficient to check the other in any supposed attempt of this kind.

If there is no necessity imposed upon America to go to war, if there is no apprehension she will, by her own conduct, involve herself in one, the danger must arise from Great Britain, and the threat is, that she will make war against us if we do not comply. Gentlemen first tell us that we have made the best possible bargain with that nation; that she has conceded every thing, without receiving a single *iota* in return, and yet they would persuade us, that she will make war against us in order to force us to accept that contract so advantageous to us, and so injurious to herself. It will not be contended, that a delay, until an amicable explanation is obtained, could afford even a pretence to Great Britain for going to war; and we all know that her own interest would prevent her. If another campaign takes place, it is acknowledged, that all her efforts are to be exerted against the West Indies. She has proclaimed her own scarcity of provisions at home, and she must depend on our supplies to support her armament. It depends upon us to defeat her whole scheme, and this is a sufficient pledge against open hostility, if the European war continues. If peace takes place, there will not be even the appearance of danger; the moment, when a nation is happy enough to emerge from one of the most expensive, bloody and dangerous wars, in which she ever has been involved, will be the last, she would choose to plunge afresh into a similar calamity.

But to the cry of war, the alarmists do not fail to add that of confusion; and they have declared, even on this floor, that if the resolution is not adopted, government will be dissolved. Government dissolved in case a postponement takes place! The idea is too absurd to deserve a direct answer. But I will ask those gentlemen, by whom government is to be dissolved? Certainly not by those who may vote against

the resolution; for although they are not perhaps fortunate enough to have obtained the confidence of the gentlemen who voted against them, still it must be agreed, that those who succeed in their wishes, who defeat a measure they dislike, will not wish to destroy that government, which they hold so far in their hands, as to be able to carry their own measures. For them to dissolve government, would be to dissolve their own power. By whom, then, I again ask, is the government to be dissolved? The gentlemen must answer—by themselves—or they must declare, that they mean nothing but to alarm. Is it really the language of those men, who profess to be, who distinguish themselves by the self-assumed appellation of friends to order, that if they do not succeed in all their measures, they will upset government—and have all their professions been only a veil to hide their love of power, a pretence to cover their ambition? Do they mean, that the first event, which shall put an end to their own authority, shall be the last act of government? As to myself, I do not believe that they have such intentions; I have too good an opinion of their patriotism to allow myself to admit such an idea a single moment; but I think myself justifiable in entertaining a belief, that some amongst them, in order to carry a favorite, and what they think to be an advantageous measure, mean to spread an alarm which they do not feel; and I have no doubt, that many have contracted such a habit of carrying every measure of government as they please, that they really think that every thing must be thrown into confusion, the moment they are thwarted in a matter of importance. I hope, that experience will in future cure their fears. But, at all events, be the wishes and intentions of the members of this House what they may, it is not in their power to dissolve the government. The people of the United States, from one end of the continent to the other, are strongly attached to their constitution; they would restrain and punish the excesses of any party, of any



set of men in government, who would be guilty of the attempt; and on them I will rest as a full security against every endeavor to destroy our union, our constitution, or our government.

But although I am not afraid of a dissolution, I feel how highly desirable is a more general union of sentiment; I feel the importance of an agreement of opinion between the different branches of government, and even between the members of the same branch. I would sacrifice much to obtain that object; it has been one of the most urging motives with me to be in favor, not of a rejection, but only of a suspension, of a delay. But even, as a matter of opinion, it is difficult to say, which mode of proceeding in this House, will best accord with the general sentiments of the people. So far as relates to the petitions before us, the number of signatures against the treaty, exceeds, at the moment I am speaking, the number of those in favor of the treaty. Amongst the last, some have come from one part of the union, where, it seems, both from the expressions in the petition itself, and from the proceedings there, that a great inducement in the petitioners to sign, was a wish to carry the treaty with Spain into effect, as they appear to suppose that its fate depends upon that of the British treaty. How they would act upon the British treaty alone, and unconnected with the other, I do not know, nor have I any evidence which enables me to form an opinion thereon. All I know is, that, until the Spanish treaty was made, they were perfectly silent on the subject of the other treaty, and never expressed an opinion upon it alone.

True it is, that an alarm, which has produced a combination, has lately taken place amongst the merchants of this and some other sea-ports. What effect it will have, and how successful they will eventually be, in spreading this alarm amongst the people at large, I cannot tell; but there are circumstances accompanying their petition, which, in my opinion, much diminish the weight they otherwise might have had. They

have undoubtedly a right to petition upon every public measure, where they think themselves interested, and their petitions deserve equal regard with those of their fellow-citizens, throughout the United States. But, on this occasion, in order to create an alarm, in order to induce the people to join them, in order to force the House to pass the laws relative to the treaty, they have formed a dangerous combination, and affected to cease insuring vessels, purchasing produce, and transacting any business. A gentleman from New York, (Mr. Williams,) has been so much alarmed himself, that he has predicted a fall in the price of every kind of produce, and seems indeed to have supposed that the clamors of a few individuals here, would either put an end to, or satisfy the wants of those nations, which depend on us for supplies of provisions. Yet, it has so happened, and it is a complete proof that the whole is only an alarm, that whilst we have been debating, the price of flour, which was of very dull sale two weeks ago, has risen in equal proportion with the supposed fears of the purchasers. I cannot help considering the cry of war, the threats of a dissolution of government, and the present alarm, as designed for the same purpose, that of making an impression on the fears of this House. It was through the fear of being involved in a war, that the negociation with Great Britain originated; under the impression of fear, the treaty has been negociated and signed; a fear of the same danger, that of war, has promoted its ratification; and now, every imaginary mischief, which can alarm our fears, is conjured up, in order to deprive us of that discretion, which this House thinks they have a right to exercise, and in order to force us to carry the treaty into effect.

If the people of the United States wish this House to carry the treaty into effect immediately, and notwithstanding the continued aggressions of the British, if their will was fairly and fully expressed, I would immediately acquiesce; but since an appeal has been made



to them, it is reasonable to suspend a decision until their sentiments are known. Till then I must follow my own judgment; and as I cannot see that any possible evils will follow a delay, I shall vote against the resolution before the committee, in order to make room, either for that proposed by my colleague, (Mr. M'Clay,) or for any other, expressed in any manner whatever, provided it embraces the object I have in view, to wit, the suspension of the final vote—a postponement of the laws necessary to carry the treaty into effect, until satisfactory assurances are obtained, that Great Britain means, in future, to show us that friendly disposition, which it is my earnest wish, may at all times, be cultivated by America towards all other nations.

*C. Vol. II. p. 23*

SPEECH OF FISHER AMES,

ON *Monday 1848*

THE BRITISH TREATY,

DELIVERED IN THE HOUSE OF REPRESENTATIVES OF THE UNITED  
STATES, APRIL 28, 1796.

*Read the speech in the House of Representatives  
U. S. C.*

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In committee of the whole on the following Resolution, *Resolved*, as the opinion of this committee, that it is expedient to pass the laws necessary for carrying into effect the treaty with Great Britain; Mr. Ames spoke as follows :

MR. CHAIRMAN,

I ENTERTAIN the hope, perhaps a rash one, that my strength will hold me out to speak a few minutes.

In my judgment, a right decision will depend more on the temper and manner, with which we may prevail upon ourselves to contemplate the subject, than upon the developement of any profound political principles, or any remarkable skill in the application of them. If we could succeed to neutralize our inclinations, we should find less difficulty than we have to apprehend in surmounting all our objections.

The suggestion, a few days ago, that the House manifested symptoms of heat and irritation, was made and retorted as if the charge ought to create surprise, and would convey reproach. Let us be more just to ourselves, and to the occasion. Let us not affect to deny the existence and the intrusion of some portion of prejudice and feeling into the debate, when, from the very structure of our nature, we ought to anticipate the



circumstance as a probability, and when we are admonished by the evidence of our senses that it is the fact.

How can we make professions for ourselves, and offer exhortations to the House, that no influence should be felt but that of duty, and no guide respected but that of the understanding, while the peal to rally every passion of man is continually ringing in our ears.

Our understandings have been addressed, it is true, and with ability and effect; but, I demand, has any corner of the heart been left unexplored? It has been ransacked to find auxiliary arguments, and, when that attempt failed, to awaken the sensibilities that would require none. Every prejudice and feeling has been summoned to listen to some peculiar style of address; and yet we seem to believe, and to consider a doubt as an affront, that we are strangers to any influence but that of unbiassed reason.

It would be strange, that a subject, which has roused in turn all the passions of the country, should be discussed without the interference of any of our own. We are men, and therefore not exempt from those passions: as citizens and representatives, we feel the interests that must excite them. The hazard of great interests cannot fail to agitate strong passions. We are not disinterested; it is impossible we should be dispassionate. The warmth of such feelings may becloud the judgment, and, for a time, pervert the understanding. But the public sensibility, and our own, has sharpened the spirit of inquiry, and given an animation to the debate. The public attention has been quickened to mark the progress of the discussion, and its judgment, often hasty and erroneous on first impressions, has become solid and enlightened at last. Our result will, I hope, on that account, be the safer and more mature, as well as more accordant with that of the nation. The only constant agents in political affairs are the passions of men. Shall we complain of our nature—shall we say that man ought to have been

made otherwise? It is right already, because HE, from whom we derive our nature, ordained it so; and because thus made and thus acting, the cause of truth and the public good is the more surely promoted.

But an attempt has been made to produce an influence of a nature more stubborn, and more unfriendly to truth. It is very unfairly pretended, that the constitutional right of this House is at stake, and to be asserted and preserved only by a vote in the negative. We hear it said, that this is a struggle for liberty, a manly resistance against the design to nullify this assembly, and to make it a cypher in the government: that the President and senate, the numerous meetings in the cities, and the influence of the general alarm of the country, are the agents and instruments of a scheme of coercion and terror, to force the treaty down our throats, though we loathe it, and in spite of the clearest convictions of duty and conscience.

It is necessary to pause here and inquire, whether suggestions of this kind be not unfair in their very texture and fabric, and pernicious in all their influences. They oppose an obstacle in the path of inquiry, not simply discouraging, but absolutely insurmountable. They will not yield to argument; for as they were not reasoned up, they cannot be reasoned down. They are higher than a Chinese wall in truth's way, and built of materials that are indestructible. While this remains, it is vain to argue; it is vain to say to this mountain, be thou cast into the sea. For, I ask of the men of knowledge of the world, whether they would not hold him for a blockhead, that should hope to prevail in an argument, whose scope and object is to mortify the self-love of the expected proselyte? I ask further, when such attempts have been made, have they not failed of success? The indignant heart repels a conviction that is believed to debase it.

The self-love of an individual is not warmer in its sense, nor more constant in its action, than what is



called in French, *l'esprit du corps*, or the self-love of an assembly; that jealous affection which a body of men is always found to bear towards its own prerogatives and power. I will not condemn this passion. Why should we urge an unmeaning censure, or yield to groundless fears that truth and duty will be abandoned, because men in a public assembly are still men, and feel that *esprit du corps* which is one of the laws of their nature? Still less should we despond or complain, if we reflect, that this very spirit is a guardian instinct, that watches over the life of this assembly. It cherishes the principle of self-preservation, and without its existence, and its existence with all the strength we see it possess, the privileges of the representatives of the people, and mediately the liberties of the people, would not be guarded, as they are, with a vigilance that never sleeps, and an unrelaxing constancy and courage.

If the consequences, most unfairly attributed to the vote in the affirmative, were not chimerical, and worse, for they are deceptive, I should think it a reproach to be found even moderate in my zeal, to assert the constitutional powers of this assembly; and whenever they shall be in real danger, the present occasion affords proof, that there will be no want of advocates and champions.

Indeed, so prompt are these feelings, and when once roused, so difficult to pacify, that if we could prove the alarm was groundless, the prejudice against the appropriations may remain on the mind, and it may even pass for an act of prudence and duty to negative a measure, which was lately believed by ourselves, and may hereafter be misconceived by others, to encroach upon the powers of the House. Principles that bear a remote affinity with usurpation on those powers will be rejected, not merely as errors, but as wrongs. Our sensibilities will shrink from a post, where it is possible they may be wounded, and be inflamed by the slightest suspicion of an assault.

While these prepossessions remain, all argument is useless. It may be heard with the ceremony of attention, and lavish its own resources, and the patience it wearies to no manner of purpose. The ears may be open, but the mind will remain locked up, and every pass to the understanding guarded.

Unless, therefore, this jealous and repulsive fear for the rights of the House can be allayed, I will not ask a hearing.

I cannot press this topic too far; I cannot address myself with too much emphasis to the magnanimity and candor of those who sit here, to suspect their own feelings, and, while they do, to examine the grounds of their alarm. I repeat it, we must conquer our persuasion, that this body has an interest in one side of the question more than the other, before we attempt to surmount our objections. On most subjects, and solemn ones too, perhaps in the most solemn of all, we form our creed more from inclination than evidence.

Let me expostulate with gentlemen to admit, if it be only by way of supposition, and for a moment, that it is barely possible they have yielded too suddenly to their alarms for the powers of this House; that the addresses, which have been made with such variety of forms, and with so great dexterity in some of them, to all that is prejudice and passion in the heart, are either the effects or the instruments of artifice and deception, and then let them see the subject once more in its singleness and simplicity.

It will be impossible, on taking a fair review of the subject, to justify the passionate appeals that have been made to us to struggle for our liberties and rights, and the solemn exhortations to reject the proposition, said to be concealed in that on your table, to surrender them forever. In spite of this mock solemnity, I demand, if the House will not concur in the measure to execute the treaty, what other course shall we take? How many ways of proceeding lie open before us?



In the nature of things there are but three; we are either to make the treaty, to observe it, or break it. It would be absurd to say we will do neither. If I may repeat a phrase already so much abused, we are under coercion to do one of them, and we have no power, by the exercise of our discretion, to prevent the consequences of a choice.

By refusing to act, we choose. The treaty will be broken and fall to the ground. Where is the fitness then, of replying to those who urge upon the House the topics of duty and policy, that they attempt to force the treaty down, and to compel this assembly to renounce its discretion and to degrade itself to the rank of a blind and passive instrument in the hands of the treaty-making power? In case we reject the appropriation, we do not secure any greater liberty of action, we gain no safer shelter than before from the consequences of the decision. Indeed they are not to be evaded. It is neither just nor manly to complain that the treaty-making power has produced this coercion to act. It is not the art or the despotism of that power, it is the nature of things that compels. Shall we, dreading to become the blind instruments of power, yield ourselves the blinder dupes of mere sounds of imposture? Yet that word, that empty word, coercion, has given scope to an eloquence, that, one would imagine, could not be tired, and did not choose to be quieted.

Let us examine still more in detail the alternatives that are before us, and we shall scarcely fail to see, in still stronger lights, the futility of our apprehensions for the power and liberty of the House.

If, as some have suggested, the thing called a treaty, is incomplete, if it has no binding force or obligation, the first question is, will this House complete the instrument, and, by concurring, impart to it that force which it wants.

The doctrine has been avowed, that the treaty, though formally ratified by the executive power of both

nations, though published as a law for our own by the President's proclamation, is still a mere proposition submitted to this assembly, no way distinguishable in point of authority or obligation, from a motion for leave to bring in a bill, or any other original act of ordinary legislation. This doctrine, so novel in our country, yet so dear to many, precisely for the reason, that in the contention for power, victory is always dear, is obviously repugnant to the very terms as well as the fair interpretation of our own resolutions—(Mr. Blount's.) We declare, that the treaty-making power is exclusively vested in the President and senate, and not in this House. Need I say, that we fly in the face of that resolution, when we pretend, that the acts of that power are not valid until we have concurred in them? It would be nonsense, or worse, to use the language of the most glaring contradiction, and to claim a share in a power, which we at the same time disclaim as exclusively vested in other departments.

What can be more strange than to say, that the compacts of the President and senate with foreign nations are treaties, without our agency, and yet those compacts want all power and obligation, until they are sanctioned by our concurrence? It is not my design in this place, if at all, to go into the discussion of this part of the subject. I will, at least for the present, take it for granted, that this monstrous opinion stands in little need of remark, and if it does, lies almost out of the reach of refutation.

But, say those, who hide the absurdity under the cover of ambiguous phrases; have we no discretion? and if we have, are we not to make use of it in judging of the expediency or inexpediency of the treaty? Our resolution claims that privilege, and we cannot surrender it without equal inconsistency and breach of duty.

If there be any inconsistency in the case, it lies, not in making the appropriations for the treaty, but in the resolution itself—(Mr. Blount's.) Let us examine it



more nearly. A treaty is a bargain between nations, binding in good faith; and what makes a bargain? The assent of the contracting parties. We allow that the treaty power is not in this House; this House has no share in contracting, and is not a party: of consequence, the President and senate alone, may make a treaty that is binding in good faith. We claim, however, say the gentlemen, a right to judge of the expediency of treaties; that is the constitutional province of our discretion. Be it so. What follows? Treaties, when adjudged by us to be inexpedient, fall to the ground, and the public faith is not hurt. This, incredible and extravagant as it may seem, is asserted. The amount of it, in plainer language, is this—the President and senate are to make national bargains, and this House has nothing to do in making them. But bad bargains do not bind this House, and, of inevitable consequence, do not bind the nation. When a national bargain, called a treaty, is made, its binding force does not depend upon the making, but upon our opinion that it is good. As our opinion on the matter can be known and declared only by ourselves, when sitting in our legislative capacity, the treaty, though ratified, and, as we choose to term it, made, is hung up in suspense, till our sense is ascertained. We condemn the bargain, and it falls, though, as we say, our faith does not. We approve a bargain as expedient, and it stands firm, and binds the nation. Yet, even in this latter case, its force is plainly not derived from the ratification by the treaty-making power, but from our approbation. Who will trace these inferences, and pretend that we have no share, according to the argument, in the treaty-making power? These opinions, nevertheless, have been advocated with infinite zeal and perseverance. Is it possible that any man can be hardy enough to avow them, and their ridiculous consequences?

Let me hasten to suppose the treaty is considered as already made, and then the alternative is fairly pre-

sented to the mind, whether we will observe the treaty or break it. This, in fact, is the naked question.

If we choose to observe it with good faith, our course is obvious. Whatever is stipulated to be done by the nation, must be complied with. Our agency, if it should be requisite, cannot be properly refused. And I do not see why it is not as obligatory a rule of conduct for the legislative as for the courts of law.

I cannot lose this opportunity to remark, that the coercion, so much dreaded and declaimed against, appears at length to be no more than the authority of principles, the despotism of duty. Gentlemen complain we are forced to act in this way, we are forced to swallow the treaty. It is very true, unless we claim the liberty of abuse, the right to act as we ought not. There is but one right way open for us, the laws of morality and good faith have fenced up every other. What sort of liberty is that, which we presume to exercise against the authority of those laws? It is for tyrants to complain, that principles are restraints, and that they have no liberty, so long as their despotism has limits. These principles will be unfolded by examining the remaining question :

#### SHALL WE BREAK THE TREATY?

The treaty is bad, fatally bad, is the cry. It sacrifices the interest, the honor, the independence of the United States, and the faith of our engagements to France. If we listen to the clamor of party intemperance, the evils are of a number not to be counted, and of a nature not to be borne, even in idea. The language of passion and exaggeration may silence that of sober reason in other places, it has not done it here. The question here is, whether the treaty be really so very fatal as to oblige the nation to break its faith. I admit that such a treaty ought not to be executed. I admit that self-preservation is the first law of society, as well as of individuals. It would, perhaps, be deemed an abuse of terms to call that a treaty, which violates such a principle. I wave also, for the



present, any inquiry, what departments shall represent the nation, and annul the stipulations of a treaty. I content myself with pursuing the inquiry, whether the nature of this compact be such as to justify our refusal to carry it into effect. A treaty is the promise of a nation. Now, promises do not always bind him that makes them.

But I lay down two rules, which ought to guide us in this case. The treaty must appear to be bad, not merely in the petty details, but in its character, principle and mass. And in the next place, this ought to be ascertained by the decided and general concurrence of the enlightened public. I confess there seems to me something very like ridicule thrown over the debate by the discussion of the articles in detail.

The undecided point is, shall we break our faith? And while our country and enlightened Europe, await the issue with more than curiosity, we are employed to gather piecemeal, and article by article, from the instrument, a justification for the deed by trivial calculations of commercial profit and loss. This is little worthy of the subject, of this body, or of the nation. If the treaty is bad, it will appear to be so in its mass. Evil to a fatal extreme, if that be its tendency, requires no proof; it brings it. Extremes speak for themselves and make their own law. What if the direct voyage of American ships to Jamaica with horses or lumber, might net one or two *per centum* more than the present trade to Surinam; would the proof of the fact avail any thing in so grave a question as the violation of the public engagements?

It is in vain to allege, that our faith, plighted to France, is violated by this new treaty. Our prior treaties are expressly saved from the operation of the British treaty. And what do those mean who say, that our honor was forfeited by treating at all, and especially by such a treaty? Justice, the laws and practice of nations, a just regard for peace as a duty to mankind, and the known wish of our citizens, as well as that

self-respect which required it of the nation to act with dignity and moderation, all these forbade an appeal to arms, before we had tried the effect of negociation. The honor of the United States was saved, not forfeited, by treating. The treaty itself, by its stipulations for the posts, for indemnity, and for a due observation of our neutral rights, has justly raised the character of the nation. Never did the name of America appear in Europe with more lustre than upon the event of ratifying this instrument. The fact is of a nature to overcome all contradiction.

But the independence of the country—we are colonists again. This is the cry of the very men who tell us, that France will resent our exercise of the rights of an independent nation to adjust our wrongs with an aggressor, without giving her the opportunity to say, those wrongs shall subsist and shall not be adjusted. This is an admirable specimen of the spirit of independence. The treaty with Great Britain, it cannot be denied, is unfavorable to this strange sort of independence.

Few men of any reputation for sense, among those who say the treaty is bad, will put that reputation so much at hazard as to pretend that it is so extremely bad as to warrant and require a violation of the public faith. The proper ground of the controversy, therefore, is really unoccupied by the opposers of the treaty; as the very hinge of the debate is on the point, not of its being good or otherwise, but whether it is intolerably and fatally pernicious. If loose and ignorant declaimers have any where asserted the latter idea, it is too extravagant, and too solidly refuted, to be repeated here. Instead of any attempt to expose it still further, I will say, and I appeal with confidence to the candor of many opposers of the treaty to acknowledge, that if it had been permitted to go into operation silently, like our other treaties, so little alteration of any sort would be made by it in the great mass of our commercial and agricultural concerns, that it



would not be generally discovered by its effects to be in force, during the term for which it was contracted. I place considerable reliance on the weight men of candor will give to this remark, because I believe it to be true, and little short of undeniable. When the panic dread of the treaty shall cease, as it certainly must, it will be seen through another medium. Those, who shall make search into the articles for the cause of their alarms, will be so far from finding stipulations that will operate fatally, they will discover few of them that will have any lasting operation at all. Those, which relate to the disputes between the two countries, will spend their force upon the subjects in dispute, and extinguish them. The commercial articles are more of a nature to confirm the existing state of things, than to change it. The treaty alarm was purely an address to the imagination and prejudices of the citizens, and not on that account the less formidable. Objections that proceed upon error, in fact or calculation, may be traced and exposed; but such as are drawn from the imagination or addressed to it, elude definition, and return to domineer over the mind, after having been banished from it by truth.

I will not so far abuse the momentary strength that is lent to me by the zeal of the occasion, as to enlarge upon the commercial operation of the treaty. I proceed to the second proposition, which I have stated as indispensably requisite to a refusal of the performance of a treaty—will the state of public opinion justify the deed?

No government, not even a despotism, will break its faith without some pretext, and it must be plausible, it must be such as will carry the public opinion along with it. Reasons of policy, if not of morality, dissuade even Turkey and Algiers from breaches of treaty in mere wantonness of perfidy, in open contempt of the reproaches of their subjects. Surely, a popular government will not proceed more arbitrarily, as it is more free; nor with less shame or scruple in proportion as it

has better morals. It will not proceed against the faith of treaties at all, unless the strong and decided sense of the nation shall pronounce, not simply that the treaty is not advantageous, but that it ought to be broken and annulled. Such a plain manifestation of the sense of the citizens is indispensably requisite; first, because if the popular apprehensions be not an infallible criterion of the disadvantages of the instrument, their acquiescence in the operation of it is an irrefragable proof, that the extreme case does not exist, which alone could justify our setting it aside.

In the next place, this approving opinion of the citizens is requisite, as the best preventive of the ill consequences of a measure always so delicate, and often so hazardous. Individuals would, in that case at least, attempt to repel the opprobrium that would be thrown upon Congress by those who will charge it with perfidy. They would give weight to the testimony of facts, and the authority of principles, on which the government would rest its vindication. And if war should ensue upon the violation, our citizens would not be divided from their government, nor the ardor of their courage be chilled by the consciousness of injustice, and the sense of humiliation, that sense which makes those despicable who know they are despised.

I add a third reason, and with me it has a force that no words of mine can augment, that a government, wantonly refusing to fulfil its engagements, is the corrupter of its citizens. Will the laws continue to prevail in the hearts of the people, when the respect that gives them efficacy is withdrawn from the legislators? How shall we punish vice while we practise it? We have not force, and vain will be our reliance, when we have forfeited the resources of opinion. To weaken government and to corrupt morals are effects of a breach of faith not to be prevented; and from effects they become causes, producing, with augmented activity, more disorder and more corruption; order will be disturbed and the life of the public liberty shortened.



And who, I would inquire, is hardy enough to pretend, that the public voice demands the violation of the treaty? The evidence of the sense of the great mass of the nation is often equivocal; but when was it ever manifested with more energy and precision than at the present moment? The voice of the people is raised against the measure of refusing the appropriations. If gentlemen should urge, nevertheless, that all this sound of alarm is a counterfeit expression of the sense of the public, I will proceed to other proofs. If the treaty is ruinous to our commerce, what has blinded the eyes of the merchants and traders? Surely they are not enemies to trade, or ignorant of their own interests. Their sense is not so liable to be mistaken as that of a nation, and they are almost unanimous. The articles, stipulating the redress of our injuries by captures on the sea, are said to be delusive. By whom is this said? The very men, whose fortunes are staked upon the competency of that redress, say no such thing. They wait with anxious fear lest you should annul that compact on which all their hopes are rested.

Thus we offer proof, little short of absolute demonstration, that the voice of our country is raised not to sanction, but to deprecate the non-performance of our engagements. It is not the nation, it is one, and but one branch of the government that proposes to reject them. With this aspect of things, to reject is an act of desperation.

I shall be asked, why a treaty so good in some articles, and so harmless in others, has met with such unrelenting opposition; and how the clamors against it from New Hampshire to Georgia, can be accounted for? The apprehensions so extensively diffused, on its first publication, will be vouched as proof, that the treaty is bad, and that the people hold it in abhorrence.

I am not embarrassed to find the answer to this insinuation. Certainly a foresight of its pernicious operation, could not have created all the fears that were

felt or affected. The alarm spread faster than the publication of the treaty. There were more critics than readers. Besides, as the subject was examined, those fears have subsided.

The movements of passion are quicker than those of the understanding. We are to search for the causes of first impressions, not in the articles of this obnoxious and misrepresented instrument, but in the state of the public feeling.

The fervor of the revolution war had not entirely cooled, nor its controversies ceased, before the sensibilities of our citizens were quickened with a tenfold vivacity, by a new and extraordinary subject of irritation. One of the two great nations of Europe underwent a change which has attracted all our wonder, and interested all our sympathies. Whatever they did, the zeal of many went with them, and often went to excess. These impressions met with much to inflame, and nothing to restrain them. In our newspapers, in our feasts, and some of our elections, enthusiasm was admitted a merit, a test of patriotism, and that made it contagious. In the opinion of party, we could not love or hate enough. I dare say, in spite of all the obloquy it may provoke, we were extravagant in both. It is my right to avow that passions so impetuous, enthusiasm so wild, could not subsist without disturbing the sober exercise of reason, without putting at risk the peace and precious interests of our country. They were hazarded. I will not exhaust the little breath I have left, to say how much, nor by whom, or by what means they were rescued from the sacrifice. Shall I be called upon to offer my proofs? They are here, they are every where. No one has forgotten the proceedings of 1794. No one has forgotten the captures of our vessels, and the imminent danger of war. The nation thirsted not merely for reparation, but vengeance. Suffering such wrongs, and agitated by such resentments, was it in the power of any words of compact, or could any parchment with



its seals prevail at once to tranquillize the people? It was impossible. Treaties in England are seldom popular, and least of all when the stipulations of amity succeed to the bitterness of hatred. Even the best treaty, though nothing be refused, will choke resentment, but not satisfy it. Every treaty is as sure to disappoint extravagant expectations as to disarm extravagant passions. Of the latter, hatred is one that takes no bribes. They, who are animated by the spirit of revenge, will not be quieted by the possibility of profit.

Why do they complain, that the West Indies are not laid open? Why do they lament, that any restriction is stipulated on the commerce of the East Indies? Why do they pretend, that if they reject this, and insist upon more, more will be accomplished? Let us be explicit—more would not satisfy. If all was granted, would not a treaty of amity with Great Britain, still be obnoxious? Have we not this instant heard it urged against our envoy, that he was not ardent enough in his hatred of Great Britain? A treaty of amity is condemned because it was not made by a foe, and in the spirit of one. The same gentleman, at the same instant, repeats a very prevailing objection, that no treaty should be made with the enemy of France. No treaty, exclaim others, should be made with a monarch or a despot: there will be no naval security while those sea-robbers domineer on the ocean: their den must be destroyed: that nation must be extirpated.

I like this, sir, because it is sincerity. With feelings such as these, we do not pant for treaties. Such passions seek nothing, and will be content with nothing, but the destruction of their object. If a treaty left king George his island, it would not answer; not if he stipulated to pay rent for it. It has been said, the world ought to rejoice if Britain was sunk in the sea; if where there are now men and wealth and laws and liberty, there was no more than a sand bank for the sea-monsters to fatten on; a space for the storms of the ocean to mingle in conflict.

I object nothing to the good sense or humanity of all this. I yield the point, that this is a proof that the age of reason is in progress. Let it be philanthropy, let it be patriotism, if you will, but it is no indication that any treaty would be approved. The difficulty is not to overcome the objections to the terms; it is to restrain the repugnance to any stipulations of amity with the party.

Having alluded to the rival of Great Britain, I am not unwilling to explain myself; I affect no concealment, and I have practised none. While those two great nations agitate all Europe with their quarrels, they will both equally desire, and with any chance of success, equally endeavor to create an influence in America. Each will exert all its arts to range our strength on its own side. How is this to be effected? Our government is a democratical republic. It will not be disposed to pursue a system of politics, in subservience to either France or England, in opposition to the general wishes of the citizens: and, if Congress should adopt such measures, they would not be pursued long, nor with much success. From the nature of our government, popularity is the instrument of foreign influence. Without it, all is labor and disappointment. With that mighty auxiliary, foreign intrigue finds agents, not only volunteers, but competitors for employment, and any thing like reluctance is understood to be a crime. Has Britain this means of influence? Certainly not. If her gold could buy adherents, their becoming such would deprive them of all political power and importance. They would not wield popularity as a weapon, but would fall under it. Britain has no influence, and for the reasons just given can have none. She has enough; and God forbid she ever should have more. France, possessed of popular enthusiasm, of party attachments, has had, and still has too much influence on our politics—any foreign influence is too much, and ought to be destroyed. I detest the man and disdain the spirit, that can bend to



a mean subserviency to the views of any nation. It is enough to be Americans. That character comprehends our duties, and ought to engross our attachments.

But I would not be misunderstood. I would not break the alliance with France; I would not have the connexion between the two countries even a cold one. It should be cordial and sincere; but I would banish that influence, which, by acting on the passions of the citizens, may acquire a power over the government.

It is no bad proof of the merit of the treaty, that, under all these unfavorable circumstances, it should be so well approved. In spite of first impressions, in spite of misrepresentation and party clamor, inquiry has multiplied its advocates; and at last the public sentiment appears to me clearly preponderating to its side.

On the most careful review of the several branches of the treaty, those which respect political arrangements, the spoliations on our trade, and the regulation of commerce, there is little to be apprehended. The evil, aggravated as it is by party, is little in degree, and short in duration; two years from the end of the European war. I ask, and I would ask the question significantly, what are the inducements to reject the treaty? What great object is to be gained, and fairly gained by it? If, however, as to the merits of the treaty, candor should suspend its approbation, what is there to hold patriotism a moment in balance, as to the violation of it? Nothing; I repeat confidently, nothing. There is nothing before us in that event but confusion and dishonor.

But before I attempt to develop those consequences, I must put myself at ease by some explanation.

Nothing is worse received among men than the confutation of their opinions; and, of these, none are more dear or more vulnerable than their political opinions. To say that a proposition leads to shame and ruin, is almost equivalent to a charge that the support-

ers of it intend to produce them. I throw myself upon the magnanimity and candor of those who hear me. I cannot do justice to my subject without exposing, as forcibly as I can, all the evils in prospect. I readily admit, that in every science, and most of all in politics, error springs from other sources than the want of sense or integrity. I despise indiscriminate professions of candor and respect. There are individuals opposed to me of whom I am not bound to say any thing. But of many, perhaps of a majority of the opposers of the appropriations, it gives me pleasure to declare, they possess my confidence and regard. There are among them individuals for whom I entertain a cordial affection.

The consequences of refusing to make provision for the treaty are not all to be foreseen. By rejecting, vast interests are committed to the sport of the winds. Chance becomes the arbiter of events, and it is forbidden to human foresight to count their number, or measure their extent. Before we resolve to leap into this abyss, so dark and so profound, it becomes us to pause and reflect upon such of the dangers as are obvious and inevitable. If this assembly should be wrought into a temper to defy these consequences, it is vain, it is deceptive, to pretend that we can escape them. It is worse than weakness to say, that as to public faith our vote has already settled the question. Another tribunal than our own is already erected. The public opinion, not merely of our own country, but of the enlightened world, will pronounce a judgment that we cannot resist, that we dare not even affect to despise.

Well may I urge it to men, who know the worth of character, that it is no trivial calamity to have it contested. Refusing to do what the treaty stipulates shall be done, opens the controversy. Even if we should stand justified at last, a character, that is vindicated, is something worse than it stood before, unquestioned and unquestionable. Like the plaintiff in an action of slander, we recover a reputation disfigured by invective, and even tarnished by too much handling. In the



combat for the honor of the nation, it may receive some wounds, which, though they should heal, will leave scars. I need not say, for surely the feelings of every bosom have anticipated, that we cannot guard this sense of national honor, this everlasting fire which alone keeps patriotism warm in the heart, with a sensibility too vigilant and jealous.

If, by executing the treaty, there is no possibility of dishonor, and if, by rejecting, there is some foundation for doubt, and for reproach, it is not for me to measure, it is for your own feelings to estimate the vast distance, that divides the one side of the alternative from the other.

If therefore, we should enter on the examination of the question of duty and obligation with some feelings of prepossession, I do not hesitate to say, they are such as we ought to have: it is an after inquiry to determine whether they are such as ought finally to be resisted.

The resolution (Mr. Blount's) is less explicit than the constitution. Its patrons should have made it more so, if possible, if they had any doubts, or meant the public should entertain none. Is it the sense of that vote, as some have insinuated, that we claim a right, for any cause or no cause at all but our own sovereign will and pleasure, to refuse to execute, and thereby to annul the stipulations of a treaty—that we have nothing to regard but the expediency or in expediency of the measure, being absolutely free from all obligation by compact to give it our sanction? A doctrine so monstrous, so shameless, is refuted by being avowed. There are no words, you could express it in, that would not convey both confutation and reproach. It would outrage the ignorance of the tenth century to believe, it would baffle the casuistry of a papal council to vindicate. I venture to say it is impossible: no less impossible than that we should desire to assert the scandalous privilege of being free after we have pledged our honor.

It is doing injustice to the resolution of the House, (which I dislike on many accounts) to strain the interpretation of it to this extravagance. The treaty-making power is declared by it to be vested exclusively in the President and senate. Will any man in his senses affirm, that it can be a treaty before it has any binding force or obligation? If it has no binding force upon us, it has none upon Great Britain. Let candor answer, is Great Britain free from any obligation to deliver the posts in June, and are we willing to signify to her that we think so? Is it with that nation a question of mere expediency or inexpediency to do it, and that too, even after we have done all that depends upon us to give the treaty effect? No sober man believes this. No one, who would not join in condemning the faithless proceedings of that nation, if such a doctrine should be avowed and carried into practice—and why complain, if Great Britain is not bound? There can be no breach of faith where none is plighted. I shall be told that she is bound. Surely it follows, that if she is bound to performance, our nation is under a similar obligation; if both parties be not obliged, neither is obliged, it is no compact, no treaty. This is a dictate of law and common sense, and every jury in the country has sanctioned it on oath.

It cannot be a treaty and yet no treaty, a bargain yet no promise; if it is a promise, I am not to read a lecture to show why an honest man will keep his promise.

The reason of the thing, and the words of the resolution of the House, imply, that the United States engage their good faith in a treaty. We disclaim, say the majority, the treaty-making power; we of course disclaim (they ought to say,) every doctrine, that would put a negative upon the doings of that power. It is the prerogative of folly alone to maintain both sides of a proposition.

Will any man affirm, the American nation is engaged by good faith to the British nation; but that en-



gagement is nothing to this House? Such a man is not to be reasoned with. Such a doctrine is a coat of mail, that would turn the edge of all the weapons of argument, if they were sharper than a sword. Will it be imagined, the king of Great Britain and the President are mutually bound by the treaty, but the two nations are free?

It is one thing for this House to stand in a position that presents an opportunity to break the faith of America, and another to establish a principle that will justify the deed.

We feel less repugnance to believe that any other body is bound by obligation than our own. There is not a man here who does not say that Great Britain is bound by treaty. Bring it nearer home. Is the senate bound? Just as much as the House and no more. Suppose the senate, as part of the treaty power, by ratifying a treaty on Monday, pledges the public faith to do a certain act. Then, in their ordinary capacity as a branch of the legislature, the senate is called upon on Tuesday to perform that act, for example, an appropriation of money—is the senate, (so lately under obligation,) now free to agree or disagree to the act? If the twenty ratifying senators should rise up and avow this principle, saying, we struggle for liberty, we will not be cyphers, mere puppets, and give their votes accordingly, would not shame blister their tongues, would not infamy tingle in their ears—would not their country, which they had insulted and dishonored, though it should be silent and forgiving, be a revolutionary tribunal, a rack on which their own reflections would stretch them?

This, sir, is a cause that would be dishonored and betrayed, if I contented myself with appealing only to the understanding. It is too cold, and its processes are too slow for the occasion. I desire to thank God, that since he has given me an intellect so fallible, he has impressed upon me an instinct that is sure. On a question of shame and honor, reasoning is sometimes

useless, and worse. I feel the decision in my pulse—if it throws no light upon the brain, it kindles a fire at the heart.

It is not easy to deny, it is impossible to doubt, that a treaty imposes an obligation on the American nation. It would be childish to consider the President and senate obliged, and the nation and the House free. What is the obligation—perfect or imperfect? If perfect, the debate is brought to a conclusion. If imperfect, how large a part of our faith is pawned? Is half our honor put at risk, and is that half too cheap to be redeemed? How long has this hair-splitting subdivision of good faith been discovered, and why has it escaped the researches of the writers on the law of nations? Shall we add a new chapter to that law, or insert this doctrine as a supplement to, or more properly a repeal of the ten commandments?

The principles and the example of the British parliament have been alleged to coincide with the doctrine of those who deny the obligation of the treaty. I have not had the health to make very laborious researches into this subject. I will, however, sketch my view of it. Several instances have been noticed, but the treaty of Utrecht is the only one that seems to be at all applicable. It has been answered, that the conduct of parliament in that celebrated example, affords no sanction to our refusal to carry the treaty into effect. The obligation of the treaty of Utrecht has been understood to depend on the concurrence of parliament, as a condition to its becoming of force. If that opinion should, however, appear incorrect, still the precedent proves, not that the treaty of Utrecht wanted obligation, but that parliament disregarded it; a proof, not of the construction of the treaty-making power, but of the violation of a national engagement. Admitting still further, that the parliament claimed and exercised its power, not as a breach of faith, but as a matter of constitutional right, I reply, that the analogy between parliament and Congress totally fails. The



nature of the British government may require and justify a course of proceeding in respect to treaties, that is unwarrantable here.

The British government is a mixed one. The king, at the head of the army, of the hierarchy, with an ample civil list, hereditary, unresponsive, and possessing the prerogative of peace and war, may be properly observed with some jealousy in respect to the exercise of the treaty-making power. It seems, and perhaps from a spirit of caution on this account, to be their doctrine, that treaties bind the nation, but are not to be regarded by the courts of law, until laws have been passed conformably to them. Our concurrence has expressly regulated the matter differently. The concurrence of parliament is necessary to treaties becoming laws in England, gentlemen say; and here the senate, representing the states, must concur in treaties. The constitution and the reason of the case, make the concurrence of the senate as effectual as the sanction of parliament, and why not? The senate is an elective body, and the approbation of a majority of the states affords the nation as ample security against the abuse of the treaty-making power, as the British nation can enjoy in the control of parliament.

Whatever doubt there may be as to the parliamentary doctrine of the obligation of treaties in Great Britain, (and perhaps there is some,) there is none in their books, or their modern practice. Blackstone represents treaties as of the highest obligation, when ratified by the king; and for almost a century, there has been no instance of opposition by parliament to this doctrine. Their treaties have been uniformly carried into effect, although many have been ratified, of a nature most obnoxious to party, and have produced louder clamor than we have lately witnessed. The example of England, therefore, fairly examined, does not warrant, it dissuades us from a negative vote.

Gentlemen have said, with spirit, whatever the true doctrine of our constitution may be, Great Britain has no

right to complain or to dictate an interpretation. The sense of the American nation as to the treaty power, is to be received by all foreign nations. This is very true as a maxim; but the fact is against those who vouch it. The sense of the American nation is not as the vote of the House has declared it. Our claim to some agency in giving force and obligation to treaties, is beyond all kind of controversy novel. The sense of the nation is probably against it. The sense of the government certainly is. The President denies it on constitutional grounds, and therefore cannot ever accede to our interpretation. The senate ratified the treaty, and cannot without dishonor adopt it, as I have attempted to show. Where then do they find the proof, that this is the American sense of the treaty-making power, which is to silence the murmurs of Great Britain? Is it because a majority of two or three, or at most of four or five of this House, will reject the treaty? Is it thus, the sense of our nation is to be recognized? Our government may thus be stopped in its movements—a struggle for power may thus commence, and the event of the conflict may decide who is the victor, and the quiet possessor of the treaty power. But, at present, it is beyond all credibility, that our vote, by a bare majority, should be believed to do any thing better than to embitter our divisions, and to tear up the settled foundations of our departments.

If the obligation of a treaty be complete, I am aware that cases sometimes exist which will justify a nation in refusing a compliance. Are our liberties, gentlemen demand, to be bartered away by a treaty,—and is there no remedy? There is. Extremes are not to be supposed, but when they happen, they make the law for themselves. No such extreme can be pretended in this instance, and if it existed, the authority it would confer to throw off the obligation, would rest where the obligation itself resides—in the nation. This House is not the nation—it is not the whole delegated authority of the nation. Being only a part of that au-



thority, its right to act for the whole society obviously depends on the concurrence of the other two branches. If they refuse to concur, a treaty, once made, remains in full force, although a breach on the part of a foreign nation would confer upon our own, a right to forbear the execution. I repeat it, even in that case the act of this House cannot be admitted as the act of the nation, and if the President and senate should not concur, the treaty would be obligatory.

I put a case that will not fail to produce conviction. Our treaty with France engages that free bottoms shall make free goods, and how has it been kept? As such engagements will ever be in time of war. France has set it aside, and pleads imperious necessity. We have no navy to enforce the observance of such articles, and paper barriers are weak against the violence of those, who are on the scramble for enemies' goods on the high seas. The breach of any article of a treaty by one nation gives an undoubted right to the other to renounce the whole treaty. But has one branch of the government that right, or must it reside with the whole authority of the nation? What if the senate should resolve, that the French treaty is broken, and therefore null and of no effect. The answer is obvious, you would deny their sole authority. That branch of the legislature has equal power in this regard with the House of Representatives. One branch alone cannot express the will of the nation.

A right to annul a treaty, because a foreign nation has broken its articles, is only like the case of a sufficient cause to repeal a law. In both cases the branches of our government must concur in the orderly way, or the law and the treaty will remain.

The very cases, supposed by my adversaries in this argument, conclude against themselves. They will persist in confounding ideas that should be kept distinct, they will suppose that the House of Representatives has no power unless it has all power. The House is nothing if it be not the whole government—the nation.

On every hypothesis, therefore, the conclusion is not to be resisted; we are either to execute this treaty, or break our faith.

To expatiate on the value of public faith may pass with some men for declamation—to such men I have nothing to say. To others I will urge—can any circumstance mark upon a people more turpitude and debasement? Can any thing tend more to make men think themselves mean, or degrade to a lower point their estimation of virtue, and their standard of action?

It would not merely demoralize mankind, it tends to break all the ligaments of society, to dissolve that mysterious charm which attracts individuals to the nation, and to inspire in its stead a repulsive sense of shame and disgust.

What is patriotism? Is it a narrow affection for the spot where a man was born? Are the very clods where we tread entitled to this ardent preference because they are greener? No, sir, this is not the character of the virtue, and it soars higher for its object. It is an extended self-love, mingling with all the enjoyments of life, and twisting itself with the minutest filaments of the heart. It is thus we obey the laws of society, because they are the laws of virtue. In their authority we see, not the array of force and terror, but the venerable image of our country's honor. Every good citizen makes that honor his own, and cherishes it not only as precious, but as sacred. He is willing to risk his life in its defence, and is conscious that he gains protection while he gives it. For, what rights of a citizen will be deemed inviolable when a state renounces the principles that constitute their security? Or if his life should not be invaded, what would its enjoyments be in a country odious in the eyes of strangers and dishonored in his own? Could he look with affection and veneration to such a country as his parent? The sense of having one would die within him; he would blush for his patriotism, if he retained any, and justly, for it would be a vice. He would be a banished man in his native land.



I see no exception to the respect, that is paid among nations to the law of good faith. If there are cases in this enlightened period, when it is violated, there are none when it is decried. It is the philosophy of politics, the religion of governments. It is observed by barbarians—a whiff of tobacco smoke, or a string of beads, gives not merely binding force, but sanctity to treaties. Even in Algiers, a truce may be bought for money, but when ratified, even Algiers is too wise, or too just, to disown and annul its obligation. Thus we see, neither the ignorance of savages, nor the principles of an association for piracy and rapine, permit a nation to despise its engagements. If, sir, there could be a resurrection from the foot of the gallows, if the victims of justice could live again, collect together and form a society, they would, however loath, soon find themselves obliged to make justice, that justice under which they fell, the fundamental law of their state. They would perceive, it was their interest to make others respect, and they would therefore soon pay some respect themselves to the obligations of good faith.

It is painful, I hope it is superfluous, to make even the supposition, that America should furnish the occasion of this opprobrium. No, let me not even imagine, that a republican government, sprung, as our own is, from a people enlightened and uncorrupted, a government whose origin is right, and whose daily discipline is duty, can, upon solemn debate, make its option to be faithless—can dare to act what despots dare not avow, what our own example evinces, the states of Barbary are unsuspected of. No, let me rather make the supposition, that Great Britain refuses to execute the treaty, after we have done every thing to carry it into effect. Is there any language of reproach pungent enough to express your commentary on the fact? What would you say, or rather what would you not say? Would you not tell them, wherever an Englishman might travel, shame would stick to him—he would

disown his country. You would exclaim, England, proud of your wealth, and arrogant in the possession of power—blush for these distinctions, which become the vehicles of your dishonor. Such a nation might truly say to corruption, thou art my father, and to the worm, thou art my mother and my sister. We should say of such a race of men, their name is a heavier burden than their debt.

I can scarcely persuade myself to believe, that the consideration I have suggested requires the aid of any auxiliary. But, unfortunately, auxiliary arguments are at hand. Five millions of dollars, and probably more, on the score of spoliations committed on our commerce, depend upon the treaty. The treaty offers the only prospect of indemnity. Such redress is promised as the merchants place some confidence in. Will you interpose and frustrate that hope; leaving to many families nothing but beggary and despair? It is a smooth proceeding to take a vote in this body: it takes less than half an hour to call the yeas and nays and reject the treaty. But what is the effect of it? What, but this; the very men, formerly so loud for redress; such fierce champions, that even to ask for justice was too mean and too slow, now turn their capricious fury upon the sufferers, and say, by their vote, to them and their families, no longer eat bread; petitioners go home and starve, we cannot satisfy your wrongs and our resentments.

Will you pay the sufferers out of the treasury? No. The answer was given two years ago, and appears on our journals. Will you give them letters of marque and reprisal to pay themselves by force? No, that is war. Besides, it would be an opportunity for those who have already lost much to lose more. Will you go to war to avenge their injury? If you do, the war will leave you no money to indemnify them. If it should be unsuccessful, you will aggravate existing evils; if successful, your enemy will have no treasure left to give our merchants; the first losses will be con-



founded with much greater and be forgotten. At the end of a war there must be a negotiation, which is the very point we have already gained; and why relinquish it? And who will be confident that the terms of the negotiation, after a desolating war, would be more acceptable to another House of Representatives, than the treaty before us. Members and opinions may be so changed, that the treaty would then be rejected for being what the present majority say it should be. Whether we shall go on making treaties and refusing to execute them, I know not. Of this I am certain, it will be very difficult to exercise the treaty-making power on the new principles, with much reputation or advantage to the country.

The refusal of the posts, (inevitable if we reject the treaty,) is a measure too decisive in its nature to be neutral in its consequences. From great causes we are to look for great effects. A plain and obvious one will be, the price of the western lands will fall. Settlers will not choose to fix their habitation on a field of battle. Those who talk so much of the interest of the United States, should calculate how deeply it will be affected by rejecting the treaty; how vast a tract of wild land will almost cease to be property. This loss, let it be observed, will fall upon a fund expressly devoted to sink the national debt. What then are we called upon to do? However the form of the vote and the protestations of many may disguise the proceeding, our resolution is in substance, and it deserves to wear the title of a resolution to prevent the sale of the western lands and the discharge of the public debt.

Will the tendency to Indian hostilities be contested by any one? Experience gives the answer. The frontiers were scourged with war till the negotiation with great Britain was far advanced, and then the state of hostility ceased. Perhaps the public agents of both nations are innocent of fomenting the Indian war, and perhaps they are not. We ought not, however, to expect that neighboring nations, highly irritated against

each other, will neglect the friendship of the savages; the traders will gain an influence and will abuse it; and who is ignorant that their passions are easily raised, and hardly restrained from violence? Their situation will oblige them to choose between this country and Great Britain, in case the treaty should be rejected. They will not be our friends, and at the same time the friends of our enemies.

But am I reduced to the necessity of proving this point? Certainly the very men who charged the Indian war on the detention of the posts, will call for no other proof than the recital of their own speeches. It is remembered with what emphasis, with what acrimony, they expatiated on the burden of taxes, and the drain of blood and treasure into the western country, in consequence of Britain's holding the posts. Until the posts are restored, they exclaimed, the treasury and the frontiers must bleed.

If any, against all these proofs, should maintain that the peace with the Indians will be stable without the posts, to them I will urge another reply. From arguments calculated to produce conviction, I will appeal directly to the hearts of those who hear me, and ask, whether it is not already planted there? I resort especially to the convictions of the western gentlemen, whether, supposing no posts and no treaty, the settlers will remain in security? Can they take it upon them to say, that an Indian peace, under these circumstances, will prove firm? No, sir, it will not be peace, but a sword: it will be no better than a lure to draw victims within the reach of the tomahawk.

On this theme, my emotions are unutterable. If I could find words for them, if my powers bore any proportion to my zeal, I would swell my voice to such a note of remonstrance, it should reach every log-house beyond the mountains. I would say to the inhabitants, wake from your false security: your cruel dangers, your more cruel apprehensions are soon to be renewed: the wounds, yet unhealed, are to be torn open



again: in the day time, your path through the woods will be ambushed: the darkness of midnight will glitter with the blaze of your dwellings. You are a father—the blood of your sons shall fatten your corn-field: you are a mother—the war-whoop shall wake the sleep of the cradle.

On this subject you need not suspect any deception on your feelings. It is a spectacle of horror, which cannot be overdrawn. If you have nature in your hearts, it will speak a language, compared with which all I have said or can say will be poor and frigid.

Will it be whispered that the treaty has made me a new champion for the protection of the frontiers? It is known that my voice as well as vote have been uniformly given in conformity with the ideas I have expressed. Protection is the right of the frontiers; it is our duty to give it.

Who will accuse me of wandering out of the subject? Who will say that I exaggerate the tendencies of our measures? Will any one answer by a sneer, that all this is idle preaching? Will any one deny, that we are bound, and I would hope to good purpose, by the most solemn sanctions of duty for the vote we give? Are despots alone to be reproached for unfeeling indifference to the tears and blood of their subjects? Are republicans irresponsible? Have the principles, on which you ground the reproach upon cabinets and kings, no practical influence, no binding force? Are they merely themes of idle declamation, introduced to decorate the morality of a newspaper essay, or to furnish pretty topics of harangue from the windows of that state-house? I trust it is neither too presumptuous nor too late to ask; can you put the dearest interest of society at risk without guilt, and without remorse?

It is vain to offer as an excuse, that public men are not to be reproached for the evils that may happen to ensue from their measures. This is very true, where they are unforeseen or inevitable. Those I have de-

pictured are not unforeseen ; they are so far from inevitable, we are going to bring them into being by our vote. We choose the consequences, and become as justly answerable for them as for the measure that we know will produce them.

By rejecting the posts, we light the savage fires, we bind the victims. This day we undertake to render account to the widows and orphans whom our decision will make, to the wretches that will be roasted at the stake, to our country, and I do not deem it too serious to say, to conscience and to God. We are answerable, and if duty be any thing more than a word of imposture, if conscience be not a bugbear, we are preparing to make ourselves as wretched as our country.

There is no mistake in this case, there can be none. Experience has already been the prophet of events, and the cries of our future victims have already reached us. The western inhabitants are not a silent and uncomplaining sacrifice. The voice of humanity issues from the shade of their wilderness. It exclaims, that while one hand is held up to reject this treaty, the other grasps a tomahawk. It summons our imagination to the scenes that will open. It is no great effort of the imagination to conceive, that events so near are already begun. I can fancy that I listen to the yells of savage vengeance, and the shrieks of torture. Already they seem to sigh in the west wind—already they mingle with every echo from the mountains.

It is not the part of prudence to be inattentive to the tendencies of measures. Where there is any ground to fear that these will be pernicious, wisdom and duty forbid that we should underrate them. If we reject the treaty, will our peace be as safe as if we executed it with good faith ? I do honor to the intrepid spirit of those who say it will. It was formerly understood to constitute the excellence of a man's faith to believe without evidence and against it.

But as opinions on this article are changed, and we are called to act for our country, it becomes us to



explore the dangers that will attend its peace, and to avoid them if we can.

Few of us here, and fewer still in proportion of our constituents, will doubt, that, by rejecting, all those dangers will be aggravated.

The idea of war is treated as a bugbear. This levity is at least unseasonable, and most of all unbecoming some who resort to it.

Who has forgotten the philippics of 1794? The cry then was reparation—no envoy—no treaty—no tedious delays. Now, it seems, the passion subsides, or at least the hurry to satisfy it. Great Britain, say they, will not wage war upon us.

In 1794, it was urged by those, who now say, no war, that if we built frigates, or resisted the piracies of Algiers, we could not expect peace. Now they give excellent comfort truly. Great Britain has seized our vessels and cargoes to the amount of millions; she holds the posts; she interrupts our trade, say they, as a neutral nation; and these gentlemen, formerly so fierce for redress, assure us, in terms of the sweetest consolation, Great Britain will bear all this patiently. But let me ask the late champions of our rights, will our nation bear it? Let others exult because the aggressor will let our wrongs sleep forever. Will it add, it is my duty to ask, to the patience and quiet of our citizens to see their rights abandoned? Will not the disappointment of their hopes, so long patronized by the government, now in the crisis of their being realized, convert all their passions into fury and despair?

Are the posts to remain forever in the possession of Great Britain? Let those who reject them, when the treaty offers them to our hands, say, if they choose, they are of no importance. If they are, will they take them by force? The argument I am urging, would then come to a point. To use force is war. To talk of treaty again is too absurd. Posts and redress must come from voluntary good will, treaty or war.

The conclusion is plain, if the state of peace shall continue, so will the British possession of the posts.

Look again at this state of things. On the sea-coast, vast losses uncompensated: on the frontier, Indian war, actual encroachment on our territory: every where discontent—resentments tenfold more fierce because they will be impotent and humbled: national scorn and abasement.

The disputes of the old treaty of 1783, being left to rankle, will revive the almost extinguished animosities of that period. Wars, in all countries, and most of all in such as are free, arise from the impetuosity of the public feelings. The despotism of Turkey is often obliged by clamor, to unsheath the sword. War might perhaps be delayed, but could not be prevented. The causes of it would remain, would be aggravated, would be multiplied, and soon become intolerable. More captures, more impressments would swell the list of our wrongs, and the current of our rage. I make no calculation of the arts of those, whose employment it has been, on former occasions, to fan the fire. I say nothing of the foreign money and emissaries that might foment the spirit of hostility, because the state of things will naturally run to violence. With less than their former exertion, they would be successful.

Will our government be able to temper and restrain the turbulence of such a crisis? The government, alas, will be in no capacity to govern. A divided people—and divided councils! Shall we cherish the spirit of peace or show the energies of war? Shall we make our adversary afraid of our strength, or dispose him, by the measures of resentment and broken faith, to respect our rights? Do gentlemen rely on the state of peace because both nations will be worse disposed to keep it; because injuries, and insults still harder to endure, will be mutually offered?

Such a state of things will exist, if we should long avoid war, as will be worse than war. Peace without security, accumulation of injury without redress, or the hope of it, resentment against the aggressor, contempt for ourselves, intestine discord and anarchy.



Worse than this need not be apprehended, for if worse could happen, anarchy would bring it. Is this the peace, gentlemen undertake with such fearless confidence to maintain? Is this the station of American dignity, which the high-spirited champions of our national independence and honor could endure—nay, which they are anxious and almost violent to seize for the country? What is there in the treaty, that could humble us so low? Are they the men to swallow their resentments, who so lately were choaking with them. If in the case contemplated by them, it should be peace, I do not hesitate to declare it ought not to be peace.

Is there any thing in the prospect of the interior state of the country, to encourage us to aggravate the dangers of a war? Would not the shock of that evil produce another, and shake down the feeble and then unbraced structure of our government? Is this a chimera? Is it going off the ground of matter of fact to say, the rejection of the appropriation proceeds upon the doctrine of a civil war of the departments? Two branches have ratified a treaty, and we are going to set it aside. How is this disorder in the machine to be rectified? While it exists, its movements must stop, and when we talk of a remedy, is that any other than the formidable one of a revolutionary interposition of the people? And is this, in the judgment even of my opposers, to execute, to preserve the constitution and the public order? Is this the state of hazard, if not of convulsion, which they can have the courage to contemplate and to brave, or beyond which their penetration can reach and see the issue? They seem to believe, and they act as if they believed, that our union, our peace, our liberty are invulnerable and immortal—as if our happy state was not to be disturbed by our dissensions, and that we are not capable of falling from it by our unworthiness. Some of them have no doubt better nerves and better discernment than mine. They can see the bright aspects and hap-

py consequences of all this array of horrors. They can see intestine discords, our government disorganized, our wrongs aggravated, multiplied and unredressed, peace with dishonor, or war without justice, union or resources, in "the calm lights of mild philosophy."

But whatever they may anticipate as the next measure of prudence and safety, they have explained nothing to the House. After rejecting the treaty, what is to be the next step? They must have foreseen what ought to be done, they have doubtless resolved what to propose. Why then are they silent? Dare they not avow their plan of conduct, or do they wait till our progress towards confusion shall guide them in forming it?

Let me cheer the mind, weary no doubt and ready to despond on this prospect, by presenting another, which it is yet in our power to realize. Is it possible for a real American to look at the prosperity of this country without some desire for its continuance, without some respect for the measures which, many will say, produced, and all will confess, have preserved it? Will he not feel some dread, that a change of system will reverse the scene? The well grounded fears of our citizens in 1794, were removed by the treaty, but are not forgotten. Then they deemed war nearly inevitable, and would not this adjustment have been considered, at that day, as a happy escape from the calamity? The great interest and the general desire of our people, was to enjoy the advantages of neutrality. This instrument, however misrepresented, affords America that inestimable security. The causes of our disputes are either cut up by the roots, or referred to a new negociation after the end of the European war. This was gaining every thing, because it confirmed our neutrality, by which our citizens are gaining every thing. This alone would justify the engagements of the government. For, when the fiery vapors of the war lowered in the skirts of our horizon, all our wishes were concentrated in this one, that



we might escape the desolation of the storm. This treaty, like a rainbow on the edge of the cloud, marked to our eyes the space where it was raging, and afforded, at the same time, the sure prognostic of fair weather. If we reject it, the vivid colors will grow pale, it will be a baleful meteor portending tempest and war.

Let us not hesitate then, to agree to the appropriation to carry it into faithful execution. Thus we shall save the faith of our nation, secure its peace, and diffuse the spirit of confidence and enterprize, that will augment its prosperity. The progress of wealth and improvement is wonderful, and some will think, too rapid. The field for exertion is fruitful and vast, and if peace and good government should be preserved, the acquisitions of our citizens are not so pleasing as the proofs of their industry, as the instruments of their future success. The rewards of exertion go to augment its power. Profit is every hour becoming capital. The vast crop of our neutrality is all seed-wheat, and is sown again to swell, almost beyond calculation, the future harvest of prosperity. And in this progress, what seems to be fiction is found to fall short of experience.

I rose to speak under impressions, that I would have resisted if I could. Those who see me will believe, that the reduced state of my health has unfitted me, almost equally, for much exertion of body or mind. Unprepared for debate, by careful reflection in my retirement, or by long attention here, I thought the resolution I had taken to sit silent, was imposed by necessity, and would cost me no effort to maintain. With a mind thus vacant of ideas, and sinking, as I really am, under a sense of weakness, I imagined the very desire of speaking was extinguished by the persuasion that I had nothing to say. Yet when I come to the moment of deciding the vote, I start back with dread from the edge of the pit into which we are plunging. In my view, even the minutes I have spent in expostulation,

have their value, because they protract the crisis, and the short period in which alone we may resolve to escape it.

I have thus been led, by my feelings, to speak more at length than I had intended. Yet I have, perhaps, as little personal interest in the event as any one here. There is, I believe, no member who will not think his chance to be a witness of the consequences greater than mine. If, however, the vote should pass to reject, and a spirit should rise, as it will, with the public disorders, to make confusion worse confounded, even I, slender and almost broken as my hold upon life is, may outlive the government and constitution of my country.



INAUGURAL ADDRESS  
OF  
JOHN ADAMS,  
PRESIDENT OF THE UNITED STATES,

DELIVERED MARCH 4, 1797.



WHEN it was first perceived, in early times, that no middle course for America remained, between unlimited submission to a foreign legislature and a total independence of its claims; men of reflection were less apprehensive of danger from the formidable power of fleets and armies they must determine to resist, than from those contests and dissensions, which would certainly arise, concerning the forms of government to be instituted over the whole, and over the parts of this extensive country. Relying, however, on the purity of their intentions, the justice of their cause, and the integrity and intelligence of the people, under an overruling Providence, which had so signally protected this country from the first; the representatives of this nation, then consisting of little more than half its present numbers, not only broke to pieces the chains which were forging, and the rod of iron that was lifted up, and frankly cut asunder the ties which had bound them, and launched into an ocean of uncertainty.

The zeal and ardor of the people during the revolutionary war, supplying the place of government, commanded a degree of order, sufficient at least for the temporary preservation of society. The confederation, which was early felt to be necessary, was prepared from the models of the Batavian and Helvetic confederacies, the only examples which remain, with any detail and precision, in history, and certainly the only ones, which the people at large had ever considered. But, reflecting on the striking difference, in so many particulars, between this country and those, where a

courier may go from the seat of government to the frontier in a single day, it was then certainly foreseen by some, who assisted in Congress at the formation of it, that it could not be durable.

Negligence of its regulations, inattention to its recommendations, if not disobedience to its authority, not only in individuals, but in states, soon appeared with their melancholy consequences; universal languor, jealousies, rivalries of states; decline of navigation and commerce; discouragement of necessary manufactures; universal fall in the value of lands and their produce; contempt of public and private faith; loss of consideration and credit with foreign nations; and, at length, in discontents, animosities, combinations, partial conventions, and insurrection, threatening some great national calamity.

In this dangerous crisis, the people of America were not abandoned by their usual good sense, presence of mind, resolution, or integrity. Measures were pursued to concert a plan, to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty. The public disquisition, discussions, and deliberations issued in the present happy constitution of government.

Employed in the service of my country abroad during the whole course of these transactions, I first saw the constitution of the United States in a foreign country. Irritated by no literary altercation, animated by no public debate, heated by no party animosity, I read it with great satisfaction, as the result of good heads, prompted by good hearts; as an experiment, better adapted to the genius, character, situation, and relations of this nation and country, than any, which had ever been proposed or suggested. In its general principles and great outlines, it was conformable to such a system of government as I had ever most esteemed; and in some states, my own native state in particular, had contributed to establish. Claiming a right of suffrage in common with my fellow-citizens



in the adoption or rejection of a constitution, which was to rule me and my posterity, as well as them and theirs, I did not hesitate to express my approbation of it on all occasions, in public and in private. It was not then nor has been since any objection to it, in my mind, that the executive and senate were not more permanent. Nor have I entertained a thought of promoting any alteration in it, but such as the people themselves, in the course of their experience, should see and feel to be necessary or expedient, and by their representatives in Congress and the state legislatures, according to the constitution itself, adopt and ordain.

Returning to the bosom of my country, after a painful separation from it for ten years, I had the honor to be elected to a station under the new order of things, and I have repeatedly laid myself under the most serious obligations to support the constitution. The operation of it has equalled the most sanguine expectations of its friends; and from an habitual attention to it, satisfaction in its administration, and delight in its effects upon the peace, order, prosperity and happiness of the nation, I have acquired an habitual attachment to it, and veneration for it.

What other form of government, indeed, can so well deserve our esteem and love?

There may be little solidity in an ancient idea, that congregations of men into cities and nations are the most pleasing objects in the sight of superior intelligencies: but this is very certain, that to a benevolent human mind there can be no spectacle presented by any nation, more pleasing, more noble, majestic, or august, than an assembly like that, which has so often been seen in this and the other chamber of Congress—of a government, in which the executive authority, as well as that of all the branches of the legislature, are exercised by citizens selected at regular periods by their neighbors, to make and execute laws for the general good. Can any thing essential, any thing more than mere ornament and decoration, be added to this by robes or diamonds? Can authority be more

amiable or respectable, when it descends from accidents or institutions established in remote antiquity, than when it springs fresh from the hearts and judgments of an honest and enlightened people? For, it is the people only that are represented: it is their power and majesty that is reflected, and only for their good, in every legitimate government, under whatever form it may appear. The existence of such a government as ours for any length of time, is a full proof of a general dissemination of knowledge and virtue throughout the whole body of the people. And what object of consideration, more pleasing than this, can be presented to the human mind? If national pride is ever justifiable or excusable, it is when it springs, not from power or riches, grandeur or glory, but from conviction of national innocence, information and benevolence.

In the midst of these pleasing ideas, we should be unfaithful to ourselves, if we should ever lose sight of the danger to our liberties, if any thing partial or extraneous should infect the purity of our free, fair, virtuous and independent elections. If an election is to be determined by a majority of a single vote, and that can be procured by a party through artifice, or corruption, the government may be the choice of a party, for its own ends, not of the nation for the national good. If that solitary suffrage can be obtained by foreign nations, by flattery or menaces, by fraud or violence, by terror, intrigue, or venality; the government may not be the choice of the American people, but of foreign nations. It may be foreign nations who govern us, and not we, the people, who govern ourselves: and candid men will acknowledge, that in such cases choice would have little advantage to boast of, over lot or chance.

Such is the amiable and interesting system of government, (and such are some of the abuses to which it may be exposed,) which the people of America have exhibited to the admiration and anxiety of the wise and virtuous of all nations for eight years; under the



administration of a citizen, who, by a long course of great actions, regulated by prudence, justice, temperance, and fortitude, conducting a people, inspired with the same virtues, and animated with the same ardent patriotism and love of liberty, to independence and peace, to increasing wealth and unexampled prosperity, has merited the gratitude of his fellow-citizens, commanded the highest praises of foreign nations, and secured immortal glory with posterity.

In that retirement, which is his voluntary choice, may he long live to enjoy the delicious recollection of his services, the gratitude of mankind; the happy fruits of them to himself and the world, which are daily increasing, and that splendid prospect of the future fortunes of his country, which is opening from year to year. His name may be still a rampart, and the knowledge that he lives, a bulwark against all open or secret enemies of his country's peace.

This example has been recommended to the imitation of his successors, by both Houses of Congress, and by the voice of the legislatures and the people, throughout the nation.

On this subject it might become me better to be silent, or to speak with diffidence; but, as something may be expected, the occasion, I hope, will be admitted as an apology, if I venture to say, that—if a preference, upon principle, of a free republican government, formed upon long and serious reflection, after a diligent and impartial inquiry after truth; if an attachment to the constitution of the United States, and a conscientious determination to support it, until it shall be altered by the judgments and wishes of the people, expressed in the mode prescribed in it; if a respectful attention to the constitutions of the individual states, and a constant caution and delicacy towards the state governments; if an equal and impartial regard to the rights, interests, honor, and happiness of all the states in the union, without preference or regard to a northern or southern, eastern or western position, their various political opinions on essential points, or their

personal attachments; if a love of virtuous men of all parties and denominations; if a love of science and letters, and a wish to patronize every rational effort to encourage schools, colleges, universities, academies, and every institution for propagating knowledge, virtue and religion among all classes of the people, not only for their benign influence on the happiness of life, in all its stages and classes, and of society in all its forms, but, as the only means of preserving our constitution from its natural enemies, the spirit of sophistry, the spirit of party, the spirit of intrigue, profligacy, and corruption, and the pestilence of foreign influence, which is the angel of destruction to elective governments; if a love of equal laws, of justice and humanity, in the interior administration; if an inclination to improve agriculture, commerce, and manufactures for necessity, convenience, and defence; if a spirit of equity and humanity towards the aboriginal nations of America, and a disposition to meliorate their condition, by inclining them to be more friendly to us, and our citizens to be more friendly to them: if an inflexible determination to maintain peace and inviolable faith with all nations, and that system of neutrality and impartiality among the belligerent powers of Europe, which has been adopted by the government, and so solemnly sanctioned by both Houses of Congress, and applauded by the legislatures of the states and the public opinion, until it shall be otherwise ordained by Congress; if a personal esteem for the French nation, formed in a residence of seven years chiefly among them, and a sincere desire to preserve the friendship, which has been so much for the honor and interest of both nations; if, while the conscious honor and integrity of the people of America, and the internal sentiment of their own power and energies must be preserved, an earnest endeavor to investigate every just cause, and remove every colorable pretence, of complaint; if an intention to pursue, by amicable negociation, a reparation for the injuries, that have been committed on



the commerce of our fellow-citizens by whatever nation; and if success cannot be obtained, to lay the facts before the legislature, that they may consider, what further measures the honor and interest of the government and its constituents demand; if a resolution to do justice, as far as may depend upon me, at all times, and to all nations, and maintain peace, friendship and benevolence with all the world; if an unshaken confidence in the honor, spirit, and resources of the American people, on which I have so often hazarded my all, and never been deceived; if elevated ideas of the high destinies of this country, and of my own duties towards it, founded on a knowledge of the moral principles and intellectual improvements of the people, deeply engraven on my mind in early life, and not obscured but exalted by experience and age, and with humble reverence I feel it my duty to add—if a veneration for the religion of a people, who profess and call themselves Christians, and a fixed resolution to consider a decent respect for christianity among the best recommendations for the public service, can enable me, in any degree, to comply with your wishes, it shall be my strenuous endeavor, that this sagacious injunction of the two Houses shall not be without effect.

With this great example before me; with the sense and spirit, the faith and honor, the duty and interest of the same American people, pledged to support the constitution of the United States, I entertain no doubt of its continuance in all its energy; and my mind is prepared without hesitation, to lay myself under the most solemn obligations to support it, to the utmost of my power.

And may that Being, who is supreme over all, the patron of order, the fountain of justice, and the protector, in all ages of the world, of virtuous liberty, continue his blessing upon this nation and its government, and give it all possible success and duration, consistent with the ends of his providence.

*Ch. W. I. p. 296*

**SPEECH OF ROBERT G. HARPER,**

*Robert G. Harper on the 17th May 1797*

**ON THE**

**NECESSITY OF RESISTING THE AGGRESSIONS AND  
ENCROACHMENTS OF FRANCE,**

**DELIVERED IN THE HOUSE OF REPRESENTATIVES OF THE  
UNITED STATES, MAY 29, 1797.**

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In 1797, the French Directory refused to receive Mr. Pinckney, the minister of the United States, under such circumstances that the President deemed it advisable to call a special session of Congress to take the subject into consideration. He accordingly issued a proclamation convoking Congress; and in his message, communicated at the opening of the session, he expressed, in strong terms of disapprobation, his sense of the indignity offered to the United States by the Directory. An address was moved in the House of Representatives, responding the sentiments of the President. An amendment, however, was proposed, expressive of an opinion that the House viewed the conduct of the Directory as less reprehensible than it had been represented by the President, and recommending conciliatory measures as the basis of the negotiations about to be entered into with France. The amendment being under consideration in committee of the whole, Mr. Harper delivered the following speech:

**MR. CHAIRMAN,**

At the time the interruption took place on Saturday, by the unfortunate indisposition of the speaker, I had drawn near to the close of those observations, with which at that time, I intended to trouble the committee. I shall now resume, as nearly as possible, the same train of remarks, and bring them to a conclusion as speedily as possible. As more time, however, is now afforded to me, I will take a range somewhat more extensive than I had prescribed to myself on the



former day, endeavoring, at the same time, to avoid every thing, not strictly relative to the question on the amendment, now under consideration.

[Mr. Harper here observed, that he should go a little out of his way, in order to notice and refute some positions laid down by gentlemen in favor of the amendment, which, though wholly irrelevant to the present question, would have a tendency, if allowed to pass uncontradicted, to render the people discontented with the government. Having concluded his remarks upon this subject, he proceeded thus :]

The scope and object of this amendment is to recommend it to the President, to offer certain concessions to France, in the negotiations which he has declared it his intention to commence. These concessions, are understood to relate to the list of contraband, which is more extensive, as stated by the British treaty, than in that with France ; and to the right of taking enemies' goods out of neutral ships, which Britain enjoys, and France by her treaty with us has given up. In these two points it is the scope and object of the amendment to recommend, that the two nations should be placed on the same footing. Hence the amendment is to be considered under two points of view ; first, the recommendation itself ; and secondly, the thing recommended.

As to the recommendation itself, I ask, is it constitutional—is it useful—is it politic ?

With respect to its constitutionality, every body knows, that the power of negociation is given wholly to the President by the constitution, and that of making treaties to the President and senate. Can the House of Representatives control or direct that power ? Can it instruct the President in matters, which the constitution has entrusted solely and exclusively to his judgment ? Shall it undertake to instruct him—will he be bound to obey those instructions ? Should he think fit to pursue a different course, will the House be justified by the constitution and their duty in with-

holding supplies, and in leaving the country without defence? Do gentlemen foresee the dilemma, which they are preparing for themselves and for the House; a dilemma in which they must choose between pride and duty, between supporting the executive in measures adopted against their advice, and leaving the country defenceless, at the mercy of all who may choose to assail it? What possible effect can this interference have, but to lay the foundations of a schism between the different departments of government?

But admitting such a recommendation to be conformable to the constitution, in what is it useful? Is it to dispose the executive to treat? If so, it is useless, for he already has that disposition, and has strongly declared it in his speech to both Houses. He has declared it as his resolution "to institute a fresh attempt at negociation, and to promote and accelerate an accommodation, provided one can be made on terms compatible with the rights, duties, interests and honor of the nation." He has declared, that if we have committed "errors, and these can be demonstrated, we shall be willing to correct them. If we have done injuries, we shall be willing, on conviction, to redress them." Can there be a spirit more conciliatory—or would gentlemen wish to see the negotiations conducted on other principles?

Is it to give information to the executive, to point out the course which the public good requires to be taken? But do gentlemen imagine that the executive is ignorant of the public interest, or less acquainted with it than the House? Is it not notorious that bodies of this kind are always unfit for negociation? Have not the people declared it, by placing that power in the hands of the President? Can gentlemen suppose, that the House possesses, or can possess, all the information necessary, in forming an opinion about what ought to be given, and what ought to be required, in a negociation with another nation? Can the House foresee all that may happen, to render this of-



fer inexpedient, or useless, or unnecessary—to justify other offers, or to make demands necessary, instead of offers of any kind? What will become of the power of negotiation in the executive, if the House is first to instruct him, and afterwards to censure him?

Some gentlemen have seemed to think, that this amendment would give weight to the negotiation abroad; would strengthen the hands of the executive, and place him on higher ground. But how is this effect to be produced? By showing, it is answered, that, in making this offer, all the branches of government are united, and that the ground thus taken will be firmly supported. But must it not be perfectly evident, that the best way of giving this impression is, to pursue a conduct and hold a language, which will evince a perfect confidence in the executive, and a determination to support him with the whole force and resources of the country? Then it is, that the offers of the executive will come with weight, when they come with evidence of union in the government, and of mutual confidence among the various departments.

Some gentlemen have supported this amendment on the ground, that it will give confidence to the people of this country in the executive; and one gentleman from Virginia, (Mr. Nicholas,) has gone so far as to say, that the people of this country will not support the government, unless its measures are right. Admitting this opinion to be true, (and I am inclined to think it may be,) still it will remain to be inquired, by what means and on what standard the people would form their opinion of the propriety and wisdom of the measures, pursued by their government. Not certainly from the declarations of that gentleman or his friends; because there has not been one measure adopted by the government, since its formation, which they have not opposed in the House and out of it, on which they have not set the stamp of their most decided censure; and yet, sir, we have seen all these measures supported and approved of by the people. We have seen the

late President, who was in a peculiar manner the author of them, under whose auspices they were adopted and established, in spite of the most violent and persevering opposition from these very gentlemen—we have seen him surrounded with applauses, with gratitude and with thanks, from every quarter of the union; we have seen the wisdom and firmness of his administration made one very principal ground of these thanks and applauses; and even in a former House of Representatives, where the principles of these gentlemen did so greatly preponderate, when they moved to strike out of an address to this great man a clause expressly approving his administration, as wise, firm and greatly beneficial to his country, the motion was overruled by a very large majority; and when the address itself, containing this obnoxious clause, was put to the vote, it passed with only twelve nays. Yet gentlemen talk to us, as if they were the standard, by which the people would measure the conduct of government! Sir, the people are not truly estimated by those gentlemen. They are not the blind, ignorant herd which those gentlemen take them to be. They will do in future what they have always done heretofore—they will judge of the measures of government by the measures themselves, and by the just confidence which they have long placed in those whom they have appointed to administer it; not by the opinions or invectives of this or that set of men, either on this floor or out of doors. Gentlemen ought to be admonished, by the frequent and always unsuccessful appeals, which they have made to the people, to give up at length this vain chimera of being able to rule public opinion, with which they have so long suffered themselves to be deluded.

I hold, sir, in my hand a paper, from that very quarter where gentlemen probably suppose, and not without appearance of reason, that their labors in the vineyard of opposition have been crowned with most success. It is an address from Mecklenburg county, in



Virginia, to their representative on this floor, and contains sentiments so just, so truly patriotic, and so applicable to the point of confidence in government, that I cannot help reading it to the committee, though I am sensible it must have already attracted the notice of every individual. [Mr. Harper then read the address.]

This paper, sir, affords a most consoling and honorable contrast to the speeches, which have lately been heard on this floor. It contains sentiments, which I have no doubt are reverberated from the hearts of every American in every part of the union, and which prove how far the people, even that part of them on which these gentlemen have most particularly relied, are from sharing with them in their want of affection for the government, and of confidence in its measures. There is nothing in this address to prove, that the people in that part of the union will refuse to support the government, unless those gentlemen should inform them that its measures were right.

I also consider the recommendation, contained in this amendment, as extremely impolitic. Is it good policy to show the enemy your eagerness to treat, your eagerness to make concessions? Is it good policy to show to France, that you have no confidence in the executive, in his wisdom, his information, his patriotic intentions; that you think it necessary to instruct and direct him? Is it good policy to send the executive trammelled to France; to send him in a situation, where he must either yield to a part of her demands, or go against the recommendations of this House? Is this the way to give weight to his negotiations, or to lessen her demands? Is it true, that there is in this House a majority, who do not confide in the executive? I repeat the question, and I address it not to those gentlemen whose constant employment it has been, for eight years past, in the House and out of it, to oppose the executive and every measure which he was understood to favor, to declare their distrust of him, and endeavor to weaken that

confidence so justly reposed in him by the people. I address not myself to these: I address myself to those gentlemen, and some such there no doubt are, who, entertaining just ideas of the constitution, and reposing full confidence in the executive, may nevertheless be inclined to favor this recommendation, because they think it a harmless thing. I could ask these gentlemen, whether there is a majority in this House, who do not think the executive worthy of confidence in the performance of his constitutional functions? I could ask them whether they are willing to make this declaration, if they do not believe it? I could ask them whether, admitting it to be true, it would be prudent to tell France so? I would ask them what, beside such a declaration, France can see in this amendment? I answer, and they must, I think, join me in the answer, that she can see nothing else. She will see in it a proof and confirmation of her present opinion, that we are a divided people; that the people are divided from the government, and the government divided within itself. This will encourage her to press and heighten her demands; for, seeing us, as she will think, divided, she will remember one part of the scripture, while she forgets all the rest, that "a house divided against itself cannot stand."

As I believe this recommendation to be unconstitutional, useless and highly impolitic, I can never give my vote in its favor.

I will now ask gentlemen, who may think the recommendation not improper, whether the measure recommended is entitled to their support? Why should it be entitled to support? Either because it is necessary, or because it is useful; because it is demanded by justice, or recommended by good policy.

If the measure were really necessary, or useful, surely the executive is as well apprized of that necessity and utility, as well qualified to judge about it, as the House of Representatives: and the thing will be as well done by him alone, and will have as much effect,



as if the House were to join in it: the claims of justice can be as completely satisfied in one case as in the other; the ends of policy as completely attained. Though I myself have very little reliance on the usefulness of the measure, and no conviction of its necessity, still I, for one, am perfectly willing that it should be tried by the executive, and perfectly willing that it should be effected, if the executive think fit. Neither have I any doubt that it will be tried. The very debate in this House will inform the executive of the propriety of trying it; and I have no doubt, moreover, that the executive is disposed to make the attempt, to offer these advantages to France. I know nothing directly of the opinion of the executive, but I know, that those who are about the executive have this opinion, and are disposed to make this offer to France, not perhaps in the unqualified and unconditional manner recommended by some gentlemen, but on terms consistent with the honor and interests of this country, and with which the public, when it comes to be informed of them, will be satisfied. I, therefore, even if I thought this measure not only useful but necessary, should still leave it most willingly to the President. But as there are gentlemen in the House, who may be inclined to favor the recommendation from an opinion, that the measure recommended is necessary or useful, I will address some considerations to them, by which they may, perhaps, be induced to doubt whether it is either the one or the other.

First, I ask them, how this measure, this concession to France, can be necessary? Do gentlemen contend, that this country is too weak to defend her rights; that it must yield to the demands of a foreign power, merely because those demands are made? I have not so understood them. Supple as their language has been, and submissive as their course of policy seems calculated to become, they have not yet bent thus low. But they have contended, that this concession is necessary, because it is right; because justice

requires it. And how does justice require it? Because, according to them, having yielded these rights to England by our treaty with her, impartial justice requires, that we should yield them also to France.

This argument rests on the ground that Britain does not possess these rights by the law of nations, which point gentlemen have taken much pains, and made many elaborate dissertations, to establish. I shall not follow them through this long diplomatic discussion, which is much better suited to the department of state, and has there been handled in a very masterly and satisfactory manner. I believe, that when the official paper on this subject, lately published from the department of state, shall be read and compared with the speeches of gentlemen, very little doubt will remain on the point. I have another reason too for avoiding a dispute on the law of nations. Gentlemen seem disposed to treat the law, and the writers on it, with as little respect as the one and the other have received from the nation whose cause they advocate. One minister of that nation, in this country, has declared those writers to be no better than worm-eaten volumes, whose contents he was happy to have forgotten. Another, at Genoa, declared, that the French had taken up arms for the express purpose of subverting the law of nations. After this I should be almost afraid to cite writers on the law of nations, lest I should be told, "that they are worm-eaten volumes." There is, however, one authority on this point, which perhaps may be acknowledged, and which I will therefore adduce. It is the marine code of France herself; from which it appears, that by the law of nations, and her own laws founded upon it, enemies' goods are liable to capture, in neutral ships.

Sir, it appears from Valin, vol. ii. page 250, that, on the 21st of October, 1744, the king of France published a regulation, "concerning prizes made at sea, and the navigation of neutral vessels in time of war." The



first, second, third and fourth articles specify all the cases in which neutral ships in time of war may sail, free from molestation. Then comes the fifth article, which is in these words: "If in any of the cases specified in the first, second, third and fourth articles of this regulation, there shall be found on board of the said neutral ships, to whatsoever nation they may belong, merchandizes or effects, the property of his majesty's enemies, such merchandize or effects shall be good prize, even though they be not the production of the enemies' country: but the ships shall be released." This regulation continued in force till the 26th of July, 1778, when the king of France, having engaged in the American war, (for the treaty of alliance was early in February, 1778,) found it his interest to relax from the principle in hopes of prevailing on England to do so too. Accordingly on that day he published a regulation, by the first article of which, enemies' property, on board of neutral ships, is declared to be safe from capture by French armed vessels. The article, however, contains the following clause: "But his majesty retains to himself a right to revoke the permission contained in the present article, should the enemy powers fail to grant a similar permission within six months from the date hereof."

Hence it is clear, that France not only has asserted and long exercised this right, which she charges us with having conceded to England, but even possesses it at the present moment, and may exercise it, if she thinks fit, without violating the law of nations; she being only restrained in those cases, in which, as in ours, she has renounced it by treaties. All this appears from her own laws and public acts; for her relinquishment of this right in July, 1778, having been merely conditional and dependent on a similar relinquishment by England, which has never taken place, may be at any moment revoked, and indeed has been; for, notwithstanding all her clamors against the English for exercising this right, it is very well known, that

she has constantly exercised it herself from the beginning of the present war.

It may therefore be expected, that we shall not hereafter be told by either France or her advocates, that the right to take enemies' goods in neutral vessels, is not a right given by the law of nations.

It has, however, been contended, that the law of nations in this respect has been altered by the convention of the armed neutrality. I will not stop to refute this position, which has been so often and so completely exposed; still less will I undertake to prove what is in itself so perfectly obvious, that the convention of the armed neutrality, being no more than a treaty, is confined, like all other treaties, to the parties who agree to it, and can in no manner affect the general rights of other states, under the general law of nations: but I will remark, that this objection about the armed neutrality, comes with a very bad grace from France; because France, when requested to accede to this convention of the armed neutrality, expressly declined it. She declined it indeed under pretence, that its principles were already established by her regulation of July, 1778. This regulation, however, as has been seen, was temporary and conditional, and left France at full liberty to adhere to the law of nations, or adopt the principles of the armed neutrality, as she might afterwards find convenient. She afterwards did refuse to accede, as appears by the authority of Mr. Gibbon; in one of whose letters to lord Sheffield, dated September 11th, 1785, and published in the first volume of his miscellaneous works, page 06, there is found this passage: "The other day the French ambassador mentioned, that the empress of Russia had proposed to ratify the principles of the armed neutrality by a definitive treaty; but that the French had declared, that they would neither propose nor accept an article, so disagreeable to England."

This, sir, is a good comment on their former proceedings with respect to this right; and proves, that



they never meant to renounce it, though they were willing, for a short time and for a particular purpose, to suspend its exercise. It is true that France afterwards, in the years 1786 and 1787, made a treaty with Russia, in which this right was finally relinquished. The same thing is done in her treaty with England in 1786. But her having so long retained it, and her very agreement at last to give it up, proves most incontestably that she believes herself to possess it, under the general law of nations.

A dispute has arisen, whether the convention of the armed neutrality is permanent in its nature, or merely confined to the duration of the American war. I have been of the latter opinion myself, on the construction of the instrument itself, and of the acts which have grown out of it; and I shall not enter again into the discussion, which I believe to be wholly immaterial. Because, whether this convention be permanent or temporary, still it is no more than a treaty, and can have no effect on the general law of nations. I will, however, correct a mistake into which a gentleman from Pennsylvania, (Mr. Gallatin,) has fallen on this subject. In order to prove that the convention of the armed neutrality was permanent in its nature, that gentleman has asserted that Portugal acceded to it after the war. But the gentleman has forgot the dates. The accession of Portugal was signed at Petersburg, July, 1782, and ratified at Lisbon, September, 1782. The ratifications were exchanged on the 21st of January, 1783. Whereas the provisional articles of peace were not signed till November 30th, 1782. The armistice for suspending hostilities took place on the 20th of January, 1783, and the definitive treaty, by which the war was really ended, was not signed till September, 1783, many months after the accession of Portugal. That accession even preceded the provisional articles by some months; and yet the gentleman from Pennsylvania has told the committee that Portugal acceded after the war.

The gentleman, however, has given up the point, so strongly contended for by others on the same side of the House. He has admitted that we did not, by the treaty with England, concede to her the right respecting neutral bottoms; but he contends that we should have made no commercial treaty with her, till she had relinquished that right. I will, however, ask that gentleman and the committee, whether it is not wise to obtain the modification of a right which operates unfavorably to us, when we cannot obtain its relinquishment? Is it not wise and lawful, since we cannot prevent this operation, to render it as little injurious as possible—to lessen its inconveniencies when we cannot quite remove them? This is what the treaty has done; and surely we may do this without asking the permission of France, or giving her cause of offence.

From all this it must evidently appear, that we have not conceded this right to England, since she possessed it by the law of nations; and that we have done France no injury. Consequently, justice does not require us to concede it to her. The argument of necessity, of course, falls to the ground.

Will the argument of utility avail gentlemen any better? They contend, that if not necessary, it would at least be useful to make this concession to France: that if not demanded by justice, it is at least recommended by policy. If so, it may be done by the President without our assistance or advice, and the same good effects will still result from it. But why will it be useful? Will it be valuable to France? Does she want it? Will this concession satisfy her? These are questions which, in my opinion, deserve particular and serious consideration.

In the first place, I would ask how this right can be valuable to France? We are not carriers for Britain. For many nations, indeed, we are carriers, but not for Britain; which, on the contrary, is very considerably a carrier for us. Our produce is often found in her ships—her goods very seldom in ours. Consequently,



the right to take British property on board of our ships, is a right of no value to France. Her interest, and a very powerful one it is, consists not in using the right herself, but in taking it away from England. It is not to seize English property in our ships that she is so anxious, but to make French property safe from being seized in them by the English. Could she once accomplish this point, her commerce would float safely in our ships, and England, being prohibited to touch it, would become infinitely less formidable to her. The navy of England would, in fact, become in a great degree useless to her, in a war against France; since it could not touch her commerce secured under our neutral flag, while France, having her commerce thus carried on for her, would be able to employ every ship and every sailor she possessed, in attacking and destroying the commerce and the navy of England. Thus that naval superiority which she so much dreads, and which enables England to counterbalance her power in Europe, would be stripped of all its effects and all its terrors. It is not, therefore, wonderful, that France should be so extremely anxious to deprive England of this right, or so ready to renounce it herself. It is of no use to her, and of infinite use, perhaps necessity, to England.

Accordingly it has been seen, that France, while perpetually urging us to resist the exercise of this right by England, and even quarrelling with us for not doing so, has never hinted the least desire to have it herself. She has not been slow or diffident, every body knows, in demanding what she thinks useful to herself; and it may, therefore, be most safely concluded, that since she has not demanded this, she thinks it of no use to her, and does not want it. To show us, indeed, how little she cares about it, she has taken it lately by a formal decree, and yet still continues to quarrel with us, and plunder us.

What reason, then, I would ask, is there for supposing, that France will be satisfied by this concession?

Does she limit her claims to this? Some gentlemen, particularly one from Maryland, (Mr. S. Smith,) has said so: but does she say so? Is that gentleman in the secret of her councils, or authorized to explain her pretensions? If so, let him show his credentials. If not, the House must take the liberty of judging, not from his assertions, but from the acts of France herself; from the official papers presented by her ministers. Let the gentleman from Maryland read these papers. He will find in them a great many pretensions to which he will never submit, but not one word of this. That gentleman has said, that her decree of March 2d, wherein she takes these rights, which gentlemen are so anxious to have conceded to her, ought to overrule all her former acts, to be considered as her *ultimatum*, as the final declaration of her wishes, her claims, and her pretensions. If so, why continue to plunder and maltreat us since that decree? Why send away our minister? Why refuse to receive another, unless all the grievances of which she has complained, and to the redress of which she thinks herself entitled, shall first be removed? Gentlemen have found in that phrase, "to the redress of which she is entitled," a wonderful restriction of all her demands, and a very conciliatory disposition. But who is to declare which are the complaints, to the redress of which she is entitled? Certainly she herself. And where is this country to look for the declaration? Certainly in the official acts of her government directed to ours, and not in decrees passed long after, nor in the speeches of members on this floor. The first of these acts is M. de la Croix's summary, delivered to our ministers at Paris, March 9th, 1796, and containing complaints against the whole British treaty, against the interference of our courts with French prizes, and against the construction, put by our government on the laws of neutrality, and on some articles of the treaty with France. Next comes the decree of July 4th, 1796, for enforcing these complaints. After that is



M. Adet's fifth note of October 27th, 1796, communicating this decree; and last of all comes his manifesto, November 15th, 1796, in which all the former complaints made by himself, his predecessors and M. de la Croix, are enlarged upon and enforced. On the 12th of December following, the directory refused to receive our minister, and declared that they would in future, receive no minister plenipotentiary from us, till all the injuries, of which they had complained, were redressed. What are the complaints here referred to? Certainly those contained in the manifesto of M. Adet: for as the directory had no doubt given him instructions, as to the manifesto and the time of publishing it, they must have known that it had been published, when they gave this answer to Gen. Pinckney; and to that manifesto, and the complaints contained in it, the answer no doubt refers. As to the decree of March 2d, which gentlemen say, ought to be considered as the *ultimatum* of France, it did not take place till two months afterwards: and to suppose that the directory, in refusing to receive a minister on account of grievances complained of, had reference to a complaint made two months after, would certainly be to charge them with a very singular absurdity.

I cannot, therefore, be persuaded that these concessions, so much relied on by gentlemen, will satisfy France, since it is certain that they form no part of her present demands, that she never has asked for them, and that they would be of little value to her, if she had them. This conclusion is greatly strengthened by the consideration, that although she had possessed herself of these rights by the decree of July 4th, 1796, and still more formally and expressly by that of March 2d, 1797, she still continued to pillage and maltreat this country, under the pretext of other complaints; whereas, had these rights now proposed to be ceded to her, been the sole or chief object of her desires, she would have ceased to complain and plunder, as soon as she had seized them.

I should be glad to hear what use is to be made of this conclusion. Is it to dissuade our government from making the offer to France? No; I, for one, wish the offer to be made, and I have no doubt, that it will be made, whether recommended by the House or not: but to dissuade the House from relying too much on the efficacy of this offer; to dissuade them from regarding this offer as in any degree an effectual mean of satisfying the demands of France, of checking her insolence, or of restraining her aggressions. To prevent them, if possible, from being led, by confidence so false, into a neglect of these decided and energetic measures of defence, on which the success of the negotiation must entirely depend. This idea, I believe, cannot be too much pressed upon the House. I conceive it to be of infinite importance in the present situation of our affairs. I am persuaded, that our only hope of avoiding war or disgrace, lies in a strict and practical attention to it. In order to enforce the more effectually its importance, I conceive, that it will be highly useful to inquire what the real wishes and objects of France are, as well as what they are not. In order to find out this, it will be proper to ask, what has been the scope of her policy in this country? And what is the ground of her anger at the British treaty? For my part, I have no doubt that the whole scope of the French policy towards this country, has been to draw it into the war against England, and the tendency of the British treaty to defeat this project, the whole ground of their animosity against that instrument. It is, in my opinion, a vain delusion, to suppose that France has conceived this mighty resentment, and is committing these unheard of outrages, on account of this or that article of a treaty, this or that advantage given to another nation, and withheld from her. It is the treaty itself, which has given her offence; and its tendency to preserve peace between this country and Britain, is the ground of that offence. If it should be asked, how this appears to have been the drift of



France? I answer, that it appears, in the first place, by the instructions to Genet. These instructions have been given to the public by M. Genet himself, in order to justify his conduct in this country. They must still be fresh in the recollection of most persons; but as there may be some, who have not particularly attended to them, or have forgotten their tenor, it will not be improper to cite some of the most remarkable passages. "The executive council, (says M. Genet,) are disposed to set on foot a negociation on these foundations, (the overtures made by general Washington and Mr. Jefferson for a new treaty,) and they do not know but that such a treaty admits a latitude still more extensive, in becoming a national agreement, in which two great nations shall suspend" (this, sir, should have been translated unite,) "their commercial and political interests, and establish a mutual understanding, to befriend the empire of liberty wherever it can be embraced, and punish those powers who still keep up an exclusive colonial and commercial system, by declaring, that their vessels shall not be received in the ports of the contracting parties." Thus it appears, that this treaty is not only to be a commercial, but also a political union: that we are to assist in extending French principles and French influence, under the name of guaranteeing the sovereignty of the people, and befriending the empire of liberty; and that, in order to accomplish this end, we are to shut our ports against all the powers who maintain an exclusive commercial and colonial system; that is, against the English, Spaniards, Danes and Dutch. This amounts in substance, and almost in name, to an alliance offensive and defensive with France.

Lest, however, her views should be misunderstood, she has gone on, in the instructions, to explain them in a manner still more clear and explicit. "As it is possible, however, (continues M. Genet,) that the false representations, which have been made to Congress of the state of our internal affairs, of the situation of

our maritime force, of our finances, and especially of the storms with which we are threatened, may make her ministers, in the negociations which citizen Genet is instructed to open, adopt a timid and wavering conduct, the executive council charges him, in expectation that the American government will finally determine to make a common cause with us, to take such steps as it will appear to him exigencies may require, to serve the cause of liberty and the freedom of the people." This passage, sir, assuredly can require no comment. In the supplementary instructions, the system is more fully developed. And indeed, the passage relative to the point under consideration is so conclusive, that I will cite it entire. These are the words: "The reciprocal guarantee of the possessions of the two nations, stipulated in the eleventh article of the treaty of 1778, can be established upon generous principles, which have been already pointed out, and shall equally be an essential clause in the new treaty, which is to be proposed." In order to understand this, it will be necessary to recollect, that the treaty of 1778, was purely defensive; so that France could not claim the guarantee in a war, in which she should be the aggressor. As she was then preparing to attack England, against which she declared war within less than a month after these instructions were signed, this defensive guarantee would not answer her purpose. She therefore evidently wished to make it offensive and defensive. For had she meant to remain on the defensive herself, the defensive guarantee would have been sufficient, and she would have wanted no other. The instructions then proceed thus: "The executive council, in consequence, recommend it especially to citizen Genet, to sound early the disposition of the American government, and to make it, (the guarantee,) a condition *sine qua non* of their commerce with the West Indies, so essential to the United States. It nearly concerns the peace and prosperity of the French nation, that a people, whose resources increase beyond all



calculation, and whom nature has placed so near our rich colonies, should become interested by their own engagements, in the preservation of these islands. Citizen Genet will find the less difficulty in making the proposition relished in the United States, as the great trade which will be the reward of it will indemnify them in the end for the sacrifices which they may make in the outset; and the Americans cannot be ignorant of the great disproportion between their resources and those of the French republic, and that for a long period the guarantee asked from them will be little more than nominal for them, while on our part it will be real, and we shall immediately put ourselves in a condition to fulfil it, by sending to the American ports a sufficient force to put them beyond insult, and to facilitate their communication with the islands and with France." Thus it manifestly appears, that an alliance, offensive and defensive in the war, which she meditated against England, was to be formed with France; that the object of this alliance was to be the preservation of her islands, and commercial privileges its reward; that we were to make sacrifices in the outset, and be reimbursed by these privileges; and that a French fleet was to be sent to our coast, for our protection. In other words, we were to become the carriers and servants of France, and she was to defend us against England.

This point indeed is so clear, that it has been admitted by the greater part of those, who possess any information on the subject. Many gentlemen, however, are of opinion, that when Genet was recalled, this system was given up by France. But I ask these gentlemen, what was the real motive of Genet's recal? Was it to disavow his plans, or to satisfy our complaints? Certainly not. His violent and foolish proceedings, which counteracted the plan instead of promoting it, were no doubt intended to be censured, and there probably was a disposition to coax and flatter our government; by the recal of this minister, in order

to prepare it better for that insidious policy, which was to be adopted by his successors. The true cause, however, of Genet's removal was the fall of the Brissotine party, to which he had belonged; and every person connected with or employed by which, Robespierre had removed. Hence the consuls in America, against whom we never had complained, were removed, as well as the minister. But did the French government disavow the instructions or the proceedings of M. Genet? Did his successors relinquish his claims and pretensions? Certainly not. On the contrary, they were all renewed and perpetually urged by those gentlemen, who never ceased to talk to us about efficacious measures against England, about a vigorous reaction. And in the manifesto published by one of them (M. Adet,) the whole of Genet's measures were expressly revived, and all his complaints renewed and enforced. Even that appeal to the people, which he was disgraced for threatening, was actually made by this manifesto.

The policy of France to draw this country into the war, appears also, from the clamor, raised by her and her partizans against the proclamation of neutrality: This clamor is fresh in the recollection of us all. Genet cried out against this proclamation; Fouchet indirectly complained of it, and Adet stigmatized it as insidious, perfidious and "a cloak under which this country presented England with a poniard, to cut the throat of our ally." Societies passed resolutions against it; orators declaimed, and newspapers teemed with abuse. Whence all this, if the object had not been to engage us in the war? Had France, as she pretended, been desirous of our remaining in peace, whence all this rage at the measure, the only possible object of which was to preserve peace? That such was her object is moreover manifest from the measures themselves which she wished us to adopt; for it is impossible to suppose her government ignorant of the direct and necessary tendency of these measures to bring us into a quarrel with England.



In the first place, she wished us to resist and repel the right, claimed and exercised by the British government under the law of nations, of taking the property of their enemies, on board of our ships. She constantly urged us, not only to deny this right, but to resist its exercise in an efficacious manner. But could she have imagined that England would yield this right to us? She knew that the English, when France, Spain, Holland and the United States, were in arms against them alone, had refused to yield it, though pressed by the formidable combination of all the neutral powers, with the empress of Russia at their head: a combination, supported too by the united maritime strength of Prussia, Sweden and Denmark. She knew that after the American war, Russia, whose treaty with England expired in 1786, and who, as a power desirous of extending its navigation, was extremely desirous of this concession, had never been able to obtain it from England.

Sir, England has constantly refused it to the formidable fleet, the immense strength, the overbearing influence, and the wise and vigorous government of the empress of Russia. She has constantly refused it to the united solicitations of Sweden and Denmark and the Hanse towns; though she has carried on a very extensive and important commerce with all these nations. She has constantly refused it, in time of peace, to all of them. To France, indeed, she conceded it in 1780, because she gained great equivalents, and had no interest in withholding it from her; as she could never expect to be engaged in a war without having France for her enemy; and in that case the stipulation could not operate. But what did she say to those nations who might remain at peace, while she and France should be at war—such as the Russians, Swedes, Danes, and Hanse towns? She said, “I will never relinquish this right to you; because it would enable you to become the carriers of France, whenever she is at war with me; and she will thereby be ena-

bled, in her turn, to employ all her ships and sailors in attacking my commerce, while hers will be safe under a neutral flag." In the year 1793, indeed, when Russia entered into the coalition against France, Britain made a temporary cession to her of this right, because the reason, for which it had been withheld, could not operate, while Russia as well as England was at war with France: but even then she would not entirely relinquish it. All this France perfectly well knew; and knowing it, could she suppose, that England, would relinquish this right to us, who had not a single ship of war, when she had refused it to the vast force of the armed neutrality—that what she had refused to so many powerful nations she would yield to a people, who, though possessing vast resources, could not call them into action without great injury to themselves, and much delay—that what she had refused in time of peace, she would surrender in a war, where not only her success, but her very existence, depended on the support of her naval power; and surrender it too to that very nation, which possessing the greatest number of ships and sailors, was most capable of exercising the right to her injury and destruction? No, France expected no such thing. She knew, that England would not surrender the right; and when she so warmly and pertinaciously urged us to resist the exercise of it, she could have had no other view than to set the two countries to quarrelling. England, she well knew, would not yield. Should we persist, a war must immediately take place.

The same, sir, will apply to the measures she wished us to adopt, respecting the impressment of seamen in our ships. It is well known, that England insists on a principle, by which all persons once her subjects always remain so, unless the right to their allegiance has been given up by the government itself. This is the case with all persons born in the United States, or settled in them at the treaty of peace. From these she claims no allegiance. But such as have come here since the treaty, she still considers as her subjects, and



claims the right of treating them as such, whenever she finds them on her own territory, or on the high seas, the common territory of nations. Of this description there are numbers of sailors on board of our ships, and she claims a right to impress them. This right I do not mean to defend; I know that in its exercise it is liable to great abuse, and is particularly inconvenient to this country; but it is claimed and exercised by France herself, and by every other nation, as well as England. Yet France has constantly urged us to resist the exercise of it by England. We have done every thing in our power to induce England to renounce it, and not succeeding in that, we have taken all proper steps to remedy and prevent its abuse. But this does not satisfy France; she urges us to resist the right itself. Why?—Because she supposes that England will yield it? No, sir, no such thing. She well knows that England will not and cannot yield it with any regard to her own safety: it being of the last importance to her in a war like the present, where she has every thing staked on her maritime exertions, to prevent her seamen from passing from hers into neutral ships, where they get better wages, lighter duty, and are free from danger. France well knows, therefore, that England will not yield this right, and this is precisely the reason why she urges us to resist it: because such a resistance must immediately produce a quarrel between Great Britain and the United States.

The same spirit is visible in her other demands; all of which tend to the same point. She wished us to adopt a construction of the treaty, that would have given her complete possession of our ports, and shut them to England. She would have armed vessels, and enlisted crews, in our country; she would have sold her prizes here; she would have taken the merchant ships of England on our shores, and in our very rivers; and our courts must not have interfered. No English ship of war could have entered our harbors, which she would not have expelled, by simply affirming, that it

had made prize on her citizens, no matter whether lately or four years ago, whether in the East Indies, the West Indies, Africa or Europe. Could she have imagined, that England would see all this partiality, all these favors to its enemy, without anger and jealousy? Could she have imagined, that bitter complaints or irritating remonstrances on the part of that country, would not take place? Certainly she could not. She knew, that anger, jealousy and irritation would necessarily be excited: she knew, that a system, which, under the name of neutrality, would have all the effect of an alliance with her, must produce resentment and remonstrance on the part of England, and that these, added to the ancient animosities not yet extinguished, but heightened on the contrary by recent injuries, must speedily end in hostility.

Sir, the plan of ambition and aggrandizement, pursued by France in Europe, affords additional proofs of her policy respecting this country. I have no doubt, that any gentleman, who will carefully examine the subject, will be convinced, that France deliberately attacked Austria as well as England, and of her own accord, and, in pursuance of a regular system of policy, lighted up the flames of the present war. I shall not, however, stop to examine that question, which would require a minute and tedious detail of facts, and is by no means, essentially necessary in the present deliberation. Whether France began the war from projects of dominion, or was driven into it for the defence of her independence, is, in some degree, unimportant at present; since it is perfectly evident, and has indeed been admitted on all sides, that with whatever motives the war began, it has long since been a mere contest for power. In this contest, France, having detached Prussia from the alliance, enslaved Belgium, subjugated Holland, and obtained an absolute control over the government and forces of Spain, found her progress resisted by nothing but the firm persevering courage of Austria on one side,



and the vast maritime power of England on the other. Accordingly, she bent all her efforts to weaken and destroy these two powers, and left nothing unattempted to divide them. She made continual efforts to induce the Turks to fall on the house of Austria on one side, and to arm Prussia against it on the other. She offered to divide its spoils with Prussia, in order to engage the avarice and ambition of that rival power, by whose assistance she might break the strength of Austria, and then rule both, with the rest of Germany. As the fear of Russia has kept the king of Prussia in awe, and restrained his enterprises, she has left no stone unturned, to lull the new emperor of Russia into security, and obtain his acquiescence. By thus raising up enemies against Austria on every side, and pressing upon it at the same time with her whole military force, she is attempting to compel it to relinquish a large part of its territories, and make a peace separate from England. But she constantly refuses either to give up her own conquests, or to make a peace in which both England and Austria should be included. The policy of this is obvious and important. Could she, after having stripped and weakened Austria, succeed in detaching it from England, she would be left free to turn her whole undivided force against that rival nation, so long the great object of her jealousy and hatred, and whose maritime superiority, it has been her policy, for a century, to reduce. In the meantime, she leaves nothing unattempted to accomplish this purpose; and knowing that the naval strength and pecuniary resources of the English depend on their trade, she resolves to assail their trade in all possible ways. Hence her former and recent attempts to exclude English vessels from every port. Hence her instructions to Genet to draw us into an alliance, one condition of which is to be the exclusion of English vessels from our ports. Hence her threats to Portugal of an invasion by Spain, unless English vessels are excluded from the Portuguese ports. Hence her recent at-

tempts of the same kind on Denmark and the Hanse towns.

To the success of this project against the commerce and navy of England, the aid of the United States is of the highest importance, and is so considered by France. I have it from the highest authority, that the plan of a maritime coalition against England, was early formed by France; that to the completion of it the accession of the United States was alone wanting; and that that accession was requested and refused. The pretence of this coalition, was to reduce the exorbitant maritime power of England, and prevent her tyranny over the other commercial states. The object of it was, and the certain effect of it if successful would have been, to break down England; by which means France, who came next to her in naval power, would have been left to reign unrivalled and uncontrolled in her stead. The United States would have been the most important member of this coalition. The great number of their ships and sailors would have enabled them to become the carriers of France, while she should employ all her maritime resources in attacking England. Their privateers also would have struck a deadly blow at the English commerce; and the use of their resources and their ports to France would have given her a decided superiority in the West Indies, and obliged the English to send so great a force there, as greatly to weaken their operations every where else. Hence it is evident that France could have no ally so important to her, in the naval war against England, as the United States. Indeed, without their assistance, she could have no hopes of success in the West Indies. Accordingly she took steps to secure this assistance, as soon as she began to form her project against England, and has pursued them ever since with the most unwearied perseverance, and by every expedient of threats, promises, flatteries, fraud and intrigue.



It being, as I conceive, perfectly manifest from all these considerations, that the plan of France has always been to draw us into the war; the house is furnished with a ready solution of her anger against the British treaty, and a clue to all her present measures. It is evident, that her anger at the treaty has arisen entirely, from its having defeated her plan of drawing us into the war; and it will readily appear, that the whole aim and object of her present measures are to compel us to renounce it; to drive us into that quarrel with England, into which she has failed in her attempts to entice us. She must either mean this, or she must mean seriously to attack us, and drive us into a war against herself. To discover which of these is her real object, what is the true motive of her present measures, is of the utmost importance; because till that is done, it will be difficult to determine, in what manner those measures ought to be counteracted, which is the point immediately under consideration. I can never believe, that it is the intention of France seriously to attack this country, or to drive it into a war against herself. She has too much to lose and too little to gain by such a contest, to have seriously resolved on it, or even to wish it. In her counsels, I have observed great wickedness, but no folly; and it would be the extreme of folly in her to compel this country to become her enemy; especially in the present war, when we can throw so formidable a weight into the opposite scale. France well knows our power in that respect, and will not compel us to exert it. She well knows, that we possess more ships and more seamen than any country upon earth except England alone. She well knows, that our sailors are the most brave, skilful and enterprizing in the world, and, that by arming our vessels, our commerce would soon be made to float safe from privateers; while her fleets and large ships would be kept in awe by those of England. She knows that in the late war, the state of Massachusetts alone, with its privateers, took one third of all

the merchant ships of Great Britain; and that, though she had no commerce to be attacked, these maritime materials, greatly increased since that time, would enable us, if driven to the necessity, to create speedily a formidable marine, with which we could, not only defend ourselves, but attack her possessions. She knows, that we have a population not far short of six millions, and that the martial spirit, which conducted us gloriously through the trying scenes of the late war, though dormant indeed, could not have been extinguished. She knows, that by co-operating with the English, (a co-operation which must result naturally from our being driven into the war,) by opening our harbors to their ships, permitting them to arm, refit and victual in our ports, to recruit among our seamen, and to employ our vessels as transports, we could give them a most decided preponderance in the American seas, under which her own colonies, and those of Spain and Holland, which she most justly considers as her own, must speedily fall.

She knows, that in case of a war with us, Spain and Holland, who must be her allies, would be within our grasp. She knows that the Americans could and would lay hold of New Orleans and the Floridas, and that they are well acquainted with the road to Mexico; and she would dread that enterprizing valor, which formerly led them through barren wilds and frozen mountains, to the walls of Quebec. She knows, in fine, that to drive this country into a war with her at the present juncture, would bring about that co-operation of means, and that union of interests and views between us and the English, which it has been the great object of her policy to prevent, and which she had undertaken two wars, in the course of half a century, for the sole and express purpose of breaking. It is, therefore, I think, impossible to conceive, that France means to drive or provoke us into war. Her object, in my opinion, must be altogether different. It must



be to compel us to renounce the British treaty, and renew all our differences with that nation, under circumstances of irritation which must speedily end in a rupture. What has led her to form this project? From whence could she derive hopes of success? She has been led to form it, in my opinion, from a persuasion, erroneous indeed, but favored by many appearances, that we are a weak, pusillanimous people, too much devoted to gain to regard our honor, too careful about our property to risk it in support of our rights, too much divided to exert our strength, too distrustful of our own government to defend it, too much devoted to her to repel her aggressions at the risk of a quarrel, too much exasperated against England to consent to that co-operation, which must of necessity grow out of resistance to France. Various occurrences have combined to produce and confirm this persuasion, and the forbearance, which our government has exercised towards herself, is not the least of them. She has seen us submit, with patience, to the insults and outrages of three successive ministers, for the very least of which, she would have sent the minister of any nation out of her country, if not to the guillotine. The minister of the grand duke of Tuscany, with whom France had recently concluded a treaty, learning that the daughter of Louis the Sixteenth was to be sent out of the country, requested permission to pay her a visit. This request to visit an unfortunate young lady, the near relation of his sovereign, and whose tender age no less than her sex, her virtues and her calamities, entitled her to respect, was answered by an order from the directory, to quit the territories of the republic. His expression of a wish to show one mark of regard to virtuous misfortune and suffering innocence, was considered as an affront by the government of France, and punished by the instant dismissal of the minister. Accustomed to act thus herself, how can she impute our long suffering and

forbearance, under the perpetual insolence and insults of her ministers, to any thing but weakness, pusillanimity, or a blind devotedness to herself? The conduct of gentlemen on this floor too has more and more confirmed her in this injurious opinion of us; has confirmed her in the erroneous persuasion, that there is a party in the very bosom of the government, devoted to her interests. I do not mean to charge gentlemen with acting under French influence. I am persuaded that, in the course they have taken, they believed themselves to be aiming at the good of their country, which they supposed might best be promoted in the manner recommended by them. But I would ask those gentlemen, and I solemnly call on them to lay their hands on their hearts and answer me—I would ask them whether the course of conduct, which they have pursued, is not calculated to impress France with a belief, that they are devoted to her interests and not to those of their own country? Whether the manner, in which they have always connected the interests and wishes of France with their opposition to the measures of this government, does not necessarily tend to create and confirm this belief? When she saw them constantly making it a ground of opposition to measures, that they would be hurtful or displeasing to her; constantly supporting those plans which she was desirous of seeing adopted; constantly opposing all that she opposed; what could she infer, but that they were a party devoted to her views? As she knows their numbers and importance, and has these apparently strong reasons for relying on their attachment, what can she conclude, but that however unable they may be to direct the government according to her wishes, they will be ready and able so to clog its operations, as to prevent it from adopting or pursuing vigorous measures against her? She no doubt does believe, and there is evidence of the fact from the most respectable quarter, our minister in



that country, that she has nothing to do but press hard on the government, in order to lay it, bound hand and foot, at the feet of this party, by means of which, she might then govern the country. She is further confirmed in this belief by the conduct of the people of this country, by their warm partiality for her cause and her nation, by their enthusiastic exultation in her victories, and the fond, sympathizing sorrow with which they mourn her disasters. Mistaking the source of these generous emotions, she has seen in them nothing but the proof of a slavish devotedness to herself, which would render this people incapable of asserting their own rights, when it must be done at the risk of her displeasure. She does not know, nor can she be made to understand, that it is the cause of liberty in which she is thought to be struggling, that inspires this enthusiasm, and that, should she change her conduct, and abandon the principles which she professes, these generous well-wishers would be found among the firmest of her opposers. A similar mistake she committed with respect to England, and that mistake further confirmed her original error. She saw much resentment excited by the attacks and outrages of England, and she supposed that resentment to be deep-rooted and durable. She did not know, and could not conceive, that, when England had given up her injurious pretensions for the future, and agreed to make a fair and just compensation for the past, we should forget our resentments, and cherish sentiments of mutual and friendly intercourse. She supposed these resentments to be far more deeply rooted, more universal, and more permanent, than they really are, and relies on them as a certain means of preventing any union of interests and operations between us and England, however recommended by policy or even required by necessity.

In all these delusions she is confirmed by the conduct, the speeches, and the writings, of persons in this

country, both our own citizens and hers; by the information and opinions of some of her citizens, who, having resided here, have carried home with them those erroneous opinions, which foreigners generally form about countries they visit; and it is to be feared by the behaviour too of some of our citizens in her own country, who, forgetting the trust reposed in them, and the situations in which they were placed, allowed themselves to pursue a course of conduct and conversation, calculated to confirm France in all her unfounded and injurious opinions, respecting this country. Supposing, therefore, that the people of this country are unwilling to oppose her, and the government unable; that we should prefer peace with submission, to the risk of war; that a strong party devoted to her will hang on the government, and impede all its measures of reaction; and that, if she should place us by her aggressions in a situation, where the choice should seem to lie between a war with England and a war with her, our hatred to England, joined to those other causes, would force us to take the former part of the alternative; she has resolved on the measures which she is now pursuing, and the object of which is to make us renounce the treaty with England, and enter into a quarrel with that nation: in fine, to effect by force and aggressions, that which she had attempted in vain by four years of intriguing and insidious policy.

If such are her objects, how was she to be induced to renounce them? By trifling concessions of this, that, or the other article of a treaty; this, that or the other advantage in trade?—No. It seems to me a delusion equally fatal and unaccountable, to suppose that she is to be thus satisfied: to suppose that, by these inconsiderable favors which she has not even asked for, she is to be bought off from a plan so great and important. It seems to me the most fatal and unaccountable delusion, that can make gentlemen shut their eyes to this testimony of every nation, to



this glare of light bursting in from every side; that can render them blind to the projects of France, to the Herculean strides of her overtowering ambition, which so evidently aims at nothing less than the establishment of universal empire, or universal influence, and has fixed on this country as one of the instruments for accomplishing her plan.

It is against this dangerous delusion that I wish to warn the House and the country. I wish to warn them not to deceive themselves with the vain and fallacious expectation, that the concessions proposed by this amendment will satisfy the wishes or arrest the measures of France. Do I dissuade you from these concessions? Far from it, I wish them to be offered, and in the way the most likely to give weight to the offer. It is a bridge which I am willing to build, for the pride of France to retreat over; but what I wish to warn the House against, is the resting satisfied with building the bridge, to the neglect of those measures by which France may be induced to march over it, after it shall be built. I wish to negotiate, and I even rely much on success; but the success of the negotiation must be secured on this floor. It must be secured by adopting firm language and energetic measures; measures which will convince France, that those opinions respecting this country, on which her system is founded, are wholly erroneous; that we are neither a weak, a pusillanimous or a divided people; that we are not disposed to barter honor for quiet, nor to save our money at the expense of our rights: which will convince her, that we understood her projects, and are determined to oppose them, with all our resources, and at the hazard of all our possessions. This, I believe, is the way to insure success to the negotiation; and without this I shall consider it as a measure equally vain, weak and delusive.

When France shall at length be convinced, that we are firmly resolved to call forth all our resources, and

exert all our strength to resist her encroachments and aggressions, she will soon desist from them. She need not be told what these resources are; she well knows their greatness and extent; she well knows that this country, if driven into a war, could soon become invulnerable to her attacks, and could throw a most formidable and preponderating weight into the scale of her adversary. She will not, therefore, drive us to this extremity, but will desist as soon as she finds us determined. I have already touched on our means of injuring France, and of repelling her attacks; and if those means were less than they are, still they might be rendered all-sufficient, by resolution and courage. It is in these that the strength of nations consists, and not in fleets, nor armies, nor population, nor money: in the "unconquerable will—the courage never to submit or yield." These are the true sources of national greatness; and to use the words of a celebrated writer,—“where these means are not wanting, all others will be found or created.” It was by these means that Holland, in the days of her glory, triumphed over the mighty power of Spain. It is by these, that in latter times, and in the course of the present war, the Swiss, a people, not half so numerous as we, and possessing few of our advantages, have honorably maintained their neutrality amid the shock of surrounding states, and against the haughty aggressions of France herself. The Swiss have not been without their trials. They had given refuge to many French emigrants, whom their vengeful and implacable country had driven and pursued from state to state, and whom it wished to deprive of their last asylum in the mountains of Switzerland. The Swiss were required to drive them away, under the pretence that to afford them a retreat was contrary to the laws of neutrality. They at first temporized and evaded the demand: France insisted; and finding at length that evasion was useless, they assumed a firm attitude, and declared that



having afforded an asylum to those unfortunate exiles, which no law of neutrality forbade, they would protect them in it at every hazard. France, finding them thus resolved, gave up the attempt. This was effected by that determined courage, which alone can make a nation great or respectable: and this effect has invariably been produced by the same cause, in every age and every clime. It was this that made Rome the mistress of the world, and Athens the protectress of Greece. When was it that Rome attracted most strongly the admiration of mankind, and impressed the deepest sentiment of fear on the hearts of her enemies? It was when seventy thousand of her sons lay bleeding at Cannæ, and Hannibal, victorious over three Roman armies and twenty nations, was thundering at her gates. It was then that the young and heroic Scipio, having sworn on his sword in the presence of the fathers of the country, not to despair of the republic, marched forth at the head of a people, firmly resolved to conquer or die: and that resolution insured them the victory. When did Athens appear the greatest and the most formidable? It was when giving up their houses and possessions to the flames of the enemy, and having transferred their wives, their children, their aged parents, and the symbols of their religion on board of their fleet, they resolved to consider themselves as the republic, and their ships as their country. It was then they struck that terrible blow, under which the greatness of Persia sunk and expired.

These means, sir, and many others are in our power. Let us resolve to use them, and act so as to convince France that we have taken the resolution, and there is nothing to fear. This conviction will be to us instead of fleets and armies, and even more effectual. Seeing us thus prepared she will not attack us. Then will she listen to our peaceable proposals; then will she accept the concessions we mean to offer. But should this offer not be thus supported, should it be at-

tended by any circumstances from which she can discover weakness, distrust or division, then will she reject it with derision and scorn. I view in the proposed amendment circumstances of this kind; and for that, among other reasons shall vote against it. I shall vote against it not because I am for war, but because I am for peace; and because I see in this amendment itself, and more especially in the course to which it points, the means of impeding, instead of promoting our pacific endeavors. And let it be remembered, that when we give this vote, we vote not only on the peace of our country, but on what is far more important, its rights and its honor.

END OF VOL. I.

Synopsis of argument  
Concerning Recommendation and Measure  
Proposed -  
First If Recommendation Constitutes  
" " " Useful  
Policy.  
Second If Recommendation not involving  
it Measure recommended worthy  
of policy - it is because its usefulness, necessity,  
or demand by justice  
for good policy.  
Then follows the refutation -















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